



An
Bord
Pleanála

Inspector's Report

ABP-319343-24

Development	Construction of 564 no. dwelling units and all associated works (www.flemingtonlanelrd.ie)
Location	Lands off Flemington Lane, Balbriggan, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	LRD0006/S3
Applicant	Dean Swift Property Holdings Unlimited Company
Type of Application	Large-Scale Residential Development (LRD)
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant	Dean Swift Property Holdings Unlimited Company
Observers	<ol style="list-style-type: none">1. Balbriggan Community Council2. Residents of Flemington Park / The Hastings / Taylor Hill, Balbriggan

Date of Site Inspection

21st May 2024

Inspector

Anthony Kelly

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1.0 Site Location and Description

- 1.1. The subject site is located immediately adjacent to the north western urban edge of Balbriggan in north Co. Dublin.
- 1.2. Three separate parcels of land comprise the site.
 - (i) The largest parcel comprises an irregular shaped site immediately west of an established housing area. The site is generally north-south in orientation and it is a largely greenfield site comprising all or part of several fields. A narrow section to the north is occupied by a house and outbuildings that it is proposed to demolish, and this section has road frontage to Flemington Lane. There is existing housing all along the eastern boundary and a residential development (Folkstown Park) is under construction adjacent to the south east. There is generally agricultural land to the north and south/south west of this parcel. The parcel is divided by a road across the site which connects Hamlet Lane to the east to a newly developed car park/sports field/park adjacent to the west.
 - (ii) This parcel of land is located approximately 70 metres west of parcel (i). It has frontage onto Clonard Road to the west with agricultural land to the north and south. A sports field/park is located immediately to its eastern boundary. This area has a relatively high ground level with views available to the east/sea and south. A reservoir is approximately 40 metres further to the south. This is a proposed class 1 public open space area.
 - (iii) This parcel comprises the junction of the R122 Regional Road and Taylor Hill Boulevard, approximately 300 metres south east of the largest parcel of land. It is proposed to upgrade this junction.
- 1.3. The site has an area of 22.62 hectares.

2.0 Proposed Development

2.1. Permission is sought for a ten-year permission comprising:

- (i) The demolition of an existing single storey dwelling (151sqm), associated single-storey storage shed (14.9sqm), and larger single-storey agricultural shed outbuilding (366sqm), to the south of Flemington Lane,
- (ii) The construction of 564 no. dwelling units, consisting of 378 no. houses ranging in height from two to three storeys, 28 no. duplex blocks ranging in height from two to three storeys comprising 84 no. duplex units, and 10 no. apartment blocks ranging in height from three to five storeys comprising 102 no. apartments. The proposed development is set out into 5 no. key Character Areas; Hampton Park South (southern-most portion of the site), Hampton Park Central (central-western portion of the site), Tanners Lane (central-eastern portion of the site), Hampton Park North (north-western portion of the site) and Flemington Park (north-eastern portion of the site). The number and mix of units comprised within each of these Character Areas is as follows:
 - (a) Hampton Park South Character Area - containing a total of 103 no. dwelling units, consisting of 71 no. houses, all of which are two storeys in height, 5 no. duplex blocks ranging in height from two to three storeys consisting of 18 no. units, and 1 no. apartment block (HS1) which is four storeys in height and consists of 14 no. apartments.
 - (b) Hampton Park Central Character Area - containing a total of 142 no. dwelling units consisting of 88 no. houses ranging in height from two to three storeys, 7 no. duplex blocks all of which are three storeys in height, consisting of 18 no. duplex units, and 3 no. apartment blocks (HC1, HC2 and HC3) ranging in height from three to five storeys, consisting of 36 no. apartments. The Hampton Park Central Character Area also comprises a two-storey childcare facility with an area of 354sqm.
 - (c) Tanner's Lane Character Area - containing a total of 54 no. dwelling units, consisting of 36 no. houses all of which are two storeys in height, 3 no. duplex blocks all of which are three storeys in height consisting of 12 no. duplex units,

and 1 no. apartment block (M2) which is three storeys in height consisting of 6 no. apartments.

(d) Hampton Park North Character Area - containing a total of 128 no. dwelling units, consisting of 84 no. houses ranging in height from two to three storeys, 8 no. duplex blocks ranging in height from two to three storeys consisting of 24 no. duplex units, and 2 no. apartment blocks (HN1 and M1) ranging in height from three to four storeys, consisting of 20 no. apartments. The Hampton Park North Character Area also comprises a two-storey childcare facility with an area of 494.6sqm.

(e) Flemington Park Character Area - containing a total of 137 no. dwelling units consisting of 99 no. houses all of which are two storeys in height, 5 no. duplex blocks ranging in height from two to three storeys consisting of 12 no. duplex units, and 3 no. apartment blocks (FM1, FM2 and FP1) ranging in height from three to four storeys consisting of 26 no. apartments. The Flemington Park Character Area also comprises a two storey childcare facility with an area of 379sqm.

The proposed development also includes:

- (iii) the construction of 9 no. commercial units (totalling 593.2 sqm) and 6 no. communal units (totalling 315.1 sqm) all of which are located at the ground floor levels of apartment blocks HS1, HC1, HC2, HC3, HN1 and FP1.
- (iv) the construction of 2 no. primary vehicular/pedestrian entrances, one from the southeast (upgrade of existing access from Boulevard Road (also known as Taylor Hill Boulevard)) and one from the north (off Flemington Lane); the construction of a secondary access route from the east (access from Hamlet Lane), the construction of 5 no. tertiary access routes (access from Flemington Park, Hastings Avenue, Hastings Drive, Hastings Lawn and Taylor Hill Grange) and the construction of a new main spine road through the site.
- (v) the provision of Class 1 Public Open Space in the form of a playing pitch (approx. 2.86ha) located to the east of Clonard Road (also known as Bridgefoot Road) (L1130 Local Road), within the western extent of the subject site. This public park is immediately west of an existing playing field which was approved under a

separate application. A number of smaller Class 2 Public Open Space areas and communal open space areas are also proposed throughout the site.

- (vi) a total of 927 no. car parking spaces and 2,014 no. bicycle spaces are proposed. Planning permission is also sought for landscaping and infrastructural works, foul and surface water drainage, bin storage, two ESB substations, open space areas including playgrounds, boundary treatments, internal roads, footpaths and cycle paths and all associated site works to facilitate the development.

2.2. The following tables set out some key aspects of the proposed development.

Table 1 – Key Figures

Site area (gross / net)	22.62 / 16.057 hectares
Number of units	564 no. (see table 2)
Building height	Two-five storeys
Density	35.13dph net
Plot ratio	0.2843 net
Site coverage	16.36% net
Dual aspect	75 no. of 102 no. apartments (approx. 73.5%)
Open space / amenities	<u>Open space</u> – Class 1 public open space of 2.86 hectares, class 2 public open space of 2.268 hectares <u>Amenities</u> – Nine commercial units, six communal units, and three childcare facilities.
Pedestrian / cyclist infrastructure	Footpaths and cycle infrastructure throughout the site. Pedestrian and cyclist permeability provided to adjoining residential areas.
Car and bicycle parking	<u>Car</u> – 927 no. spaces (806 no. residents, 94 no. visitor, 11 no. disabled, seven creche, and nine set down). 162 no. are EV. <u>Bicycle</u> – 2,552 no. spaces ¹

¹ The number of bicycle spaces was increased as part of the applicant's further information response.

Part V	114 no. units (50 no. houses, 46 no. duplexes, and 18 no. apartments)
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Table 2 – Unit Breakdown

Type	Bedroom Number				Total
	1-Bed	2-Bed	3-Bed	4-Bed	
Houses	0	127	237	14	378 (67.0%)
Duplexes	22	36	26	0	84 (14.9%)
Apartments	35	67	0	0	102 (18.1%)
Total	57 (10.1%)	230 (40.8%)	263 (46.6%)	14 (2.5%)	564 (100%)

- 2.3. The proposed development comprises houses, duplex units, and apartments as well as commercial development, communal units, and open space areas etc. The C-Ring road, as outlined on the zoning map, has an influence on the basic site layout as it traverses the subject site. It would connect to Flemington Lane to the north and run in a southerly direction towards Clonard Road. However, under this planning application it is only proposed to partially complete this road. Vehicular access is also proposed to connect to Boulevard Road and Hamlet Lane (there is already a road across the site from Hamlet Lane) and filtered permeability is also proposed to other areas. The development itself is separated by the road network into five distinct character areas. It is stated that each of these neighbourhood areas create a sense of place for future residents by way of, inter alia, open space areas, architectural features and house type materiality, and the hierarchy of streets.
- 2.4. 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 ‘Statement of Consistency & Planning Report’ prepared by Hughes Planning & Development Consultants (Hughes) and dated July 2023,

- a 'Statement of Response to FCC Pre-Application Consultation Opinion' prepared by Hughes and dated July 2023,
- an 'Environmental Impact Assessment Report' (EIAR) in three volumes comprising volume I (Non-Technical Summary), volume II (the EIAR itself), and volume III (Appendices to EIAR), all prepared by Hughes. Volume I is dated June 2023 and volumes II and III are dated July 2023,
- an 'Appropriate Assessment Screening' report prepared by Altemar Marine & Environmental Consultancy (Altemar) and dated 5th July 2023,
- a 'Design Statement' prepared by Ferreira Architects and dated July 2023
- Housing Quality Assessments prepared by Ferreira Architects and dated May and June 2023,
- a 'Daylight and Sunlight Assessment Report' prepared by 3D Design Bureau and dated June 2023,
- 'Verified Views and CGI' prepared by 3D Design Bureau and dated June 2023,
- an 'Engineering Services Design Report' prepared by MPA Consulting Engineers (MPA) and dated May 2022,
- a 'Flood Risk Assessment' prepared by MPA and dated May 2023,
- a 'Traffic and Transport Assessment Report' dated September 2021 and a 'Traffic and Transport Assessment Update Report' (collectively the 'TTA') dated June 2023, both prepared by MPA,
- an 'Arboricultural Report' prepared by Charles McCorkell and dated June 2023,
- an 'Archaeological Testing Report' prepared by Courtney Deery and dated 21st July 2021,
- a 'Social & Community Infrastructure Audit' prepared by Hughes and dated July 2023, and,
- a 'Construction Waste Management Plan' and an 'Operational Waste Management Plan', both prepared by GDCL Consulting Engineers and dated 23rd June 2023.

2.5. Further information was sought by the local authority on 5th September 2023 and a response was received on 20th December 2023. The further information response included:

- a 'Response to Further Information Request' document prepared by Hughes and dated December 2023,
- an 'Environmental Impact Assessment Report' (EIAR) in three volumes comprising volume I (Non-Technical Summary), volume II (the EIAR itself), and volume III (Appendices to EIAR; in two parts), all prepared by Hughes and dated November 2023.
- an 'Appropriate Assessment Screening & Natura Impact Statement' prepared by Altemar and dated 16th November 2023,
- 'Verified Views and CGI' prepared by 3D Design Bureau and dated November 2023, and,
- a 'Refurbishment Demolition Asbestos Survey' prepared by Asbestos Safe and dated 13th October 2023.

3.0 Planning Authority Pre-Application Opinion

3.1. An LRD meeting took place on 26th January 2023 between the applicant and Fingal Co. Co. following earlier section 247 meetings.

3.2. In the LRD opinion issued on 23rd February 2023 the local authority was of the opinion that the documentation required consideration and amendments and cited specific points to be addressed in any application. These included density, urban design, overlooking potential, open space, the C-Ring road, phasing, issues raised by internal council departments, part 5, and in-combination effects for environmental impact assessment (EIA) and appropriate assessment (AA).

4.0 Planning Authority Decision

4.1. Decision

4.1.1. The planning application was received by the local authority on 12th July 2023. Further information was sought on 5th September 2023 and a response was received by the local authority on 20th December 2023.

4.1.2. Fingal Co. Co. refused planning permission for the following three reasons:

1. The design and layout of the proposed development, particularly in relation to its failure to provide for high quality public open spaces, the unresolved nature of the southern alignment and layout of the C-Ring/Spine Road, and achievement of wider connectivity opportunities, and given the deficiencies in the establishment of appropriate phasing arrangements, would result in a substandard residential development providing a poor-quality environment for future residents which would be deficient in the timely delivery of necessary and supporting infrastructure and would fail to contribute to the achievement of enhanced connectivity and sustainable travel opportunities to serve northwest Balbriggan. The development would therefore seriously injure the amenities of future residents of the scheme and would seriously injure the amenities of property in the vicinity of the site. The development would therefore be contrary to the proper planning and sustainable development of the area.
2. Insufficient information is available to the Planning Authority to enable it as the competent authority to determine whether the proposed development individually, or in combination, with other plans or projects would not adversely affect the integrity of nearby European Sites or their qualifying interests. Accordingly, the planning authority cannot conclude beyond reasonable doubt that the development would not impact Natura 2000 sites in the vicinity or have a detrimental impact on their qualifying interests. The Planning Authority is therefore precluded from granting permission for the proposed development.
3. The proposed development, having regard to the lack of clarity in relation to the transfer of lands to the south of the site which would assist in the timely delivery of transportation schemes and provision of enhanced connectivity and sustainable travel opportunities to serve northwest Balbriggan, would contravene materially

Objective CMO41 of the Fingal Development Plan 2023-2029 which sets out the Council's proposals for the development of the County's transportation network. The development as proposed would therefore be contrary to the proper planning and sustainable development of the area.

4.2. **Planning Authority Reports**

- 4.2.1. Two Planning Reports were prepared, dated 5th September 2023 and 22nd February 2024.
- 4.2.2. Both reports contain the same, inter alia, background, planning history, details of the development, summary of third-party submissions and both internal and prescribed body reports, relevant policy, and assessment of the LRD under a number of sub-headings, plus EIA and AA.
- 4.2.3. On foot of the first Planning Report, further information was sought by the local authority on issues of AA, EIA, provision of the C-Ring, the Boulevard/R122 road junction, shared surfaces, public open space, and density. The responses to these issues were summarised and assessed in the second Planning Report.
- 4.2.4. The second Planning Report concluded that 'The development as proposed would ... result in a substandard residential development providing a poor-quality environment for future residents; would be deficient in the timely delivery and phasing of necessary and supporting infrastructure and would fail to contribute to achievement of enhanced connectivity and sustainable travel opportunities to serve northwest Balbriggan. Furthermore, the Planning Authority cannot conclude that the Proposed Project, individually or in combination with another plan or project, would not have a significant effect on any European sites or the Qualifying Interests of any European site'. A refusal was recommended for the three reasons as set out in section 4.1.

4.2.5. **Other Technical Reports**

Water Services – No objection subject to conditions.

Transportation Planning – Following the further information response there was no objection subject to conditions.

Environment Section (Waste Enforcement & Regulation) – Condition recommended.

Public Lighting – Commentary was provided in relation to public lighting on foot of the further information response. A number of conditions were cited.

Architects Department – The report originally prepared stated that all architectural items previously raised had been addressed. On foot of the further information response some comments were made in relation to the location of car parking.

Architectural Conservation Officer – Commentary was provided in relation to the suburban nature of the development encroaching into a rural area and impact on archaeology. Measures may be required to protect building BH1 during construction, and stone from the shed to be demolished, BH2, should be reused.

Parks and Green Infrastructure Division – Commentary was provided in relation to further information response items. It was concluded that these issues had not been adequately addressed.

Heritage Officer / Archaeologist – A report was received on foot of the further information response. Commentary was provided on archaeology and cultural heritage issues. A number of recommendations were outlined.

4.3. Prescribed Bodies

Department of Housing, Local Government and Heritage – Archaeology – Condition recommended.

Uisce Éireann – Conditions were recommended.

National Transport Authority (NTA) – The location and density of development is appropriate in the context of the Transport Strategy for the Greater Dublin Area 2016-2035 and the permeability is welcomed. There is potential for further filtered permeability. The consideration given to existing and future public transport networks in the town is noted, in particular the potential future accommodation of an expansion of the bus service. It is recommended that consideration be given to the specific design of junctions along the central access corridor to align with the National Cycle Manual. A quantum of car parking spaces below the ‘norm’ is appropriate.

Transport Infrastructure Ireland (TII) – Two TII reports were received. The first report, dated 24th July 2023, considered that insufficient data had been submitted to demonstrate that the proposed development will not have a detrimental impact on the

capacity, safety, or operational efficiency of the national road network in the vicinity. However, the second report received by the planning authority, dated 16th January 2024, stated that ‘In the case of this planning application, Transport Infrastructure Ireland has no observations to make’.

Health and Safety Authority (HSA) – No observations to forward.

4.4. Third Party Observations

4.4.1. 98 no. third-party observations were received by the local authority on foot of the original planning application, from local residents, residents’ groups, and local representatives. The main issues raised are largely covered by the observations made on the grounds of appeal with the exception of the following:

- Inadequate waste and surface water infrastructure in the town / proposed use of existing wastewater infrastructure outside the site boundary / concern about water infrastructure
- Concerns about permeability from the proposed development into adjacent residential areas / anti-social activity / privacy
- Increased traffic congestion/traffic impact / Flemington Lane is substandard / impact on car parking/overflow car parking / traffic hazard / car-dependant development / distance to train station / road is inconsistent with that given in the Development Plan / pedestrian and cycle connectivity in the wider area
- Impact on existing residential amenity / shadowing / views / overlooking
- Impact on biodiversity/wildlife
- Construction and operational phase noise and pollution
- Inadequate Garda resources in Balbriggan
- Excessive social housing provision
- Flood risk
- Objection to the use of the name Flemington Park as this already exists
- Reference to other planning application decisions
- Devaluation of property

- Lack of current community amenities
- Additional open space required
- The Council has a conflict of interest as it would benefit by part V provision.
- Poor layout

4.4.2. 19 no. third-party observations were received by the local authority on foot of the further information response. The observations were received from local residents and a residents' committee. The main issues raised were largely covered by the observations made on the grounds of appeal and the summary of issues raised on foot of the original planning application, as per the previous paragraph. Some observations considered that there had been no change in the proposals despite the volume of objections and concerns had not been addressed.

5.0 Planning History

5.1. There has been a significant planning history on and in the vicinity of the site. The main extant applications relevant to the current application can be summarised as follows.

On site

5.2. FCC Reg. Ref. F08A/1329 / ABP Reg. Ref. PL 06F.235048 – In 2010, the Board attached, removed and amended a number of conditions relating to a ten-year grant of permission for 532 no. residential units (281 no. houses and 151 no. apartments), the C-Ring and Boulevard, class 1 public park, and urban square etc. on a 29 hectares site. The development represents phase 2 of the development of the lands (07A/1249 being phase 1). The permission was extended to 23rd February 2025 under F08A/1329/E1.

Folkstown Park / Ladywell (under construction adjacent to the south east)

5.3. There are several extant permissions for development. Construction is ongoing with houses at an advanced state of completion towards the northern section of the development site.

FCC Reg. Ref. F22A/0670 – In 2023 the local authority granted permission for phase 3C, and roads, services, and public spaces relating to the overall phase 3 Ladywell Masterplan, comprising 75 no. residential units (68 no. houses and 7 no. triplex and maisonette apartments), 1.34 hectares public open space (phase 3C 0.38 hectares), communal open space, 0.65 hectares Class 1 open space, roads and services, upgrade of Boulevard Road and Clonard Road/R122 etc.

FCC Reg. Ref. F22A/0526 – In 2023 the local authority granted permission for a ten-year permission for phase 3B, and roads services, and public spaces relating to the overall phase 3 Ladywell masterplan, comprising 95 no. residential units (79 no. houses and 16 no. 1-bed maisonettes), 1.34 hectares public open space, communal space, Class 1 public open space of 0.65 hectares, roads and services, upgrade of the Boulevard / Clonard Road (R122) junction) etc.

FCC Reg. Ref. F21A/0055 / ABP Reg. Ref. ABP-312048-21 – In 2023 the Board granted permission for phase 3A, and roads, services, and public spaces relating to the overall phase 3 Ladywell Masterplan, comprising 99 no. residential units (73 no. houses, 16 no. duplex apartments, 6 no. triplex apartments, and 4 no. maisonette apartments), open space including class 1 open space, roads and services infrastructure etc.

5.4. The EIA Portal reference number is 2023118.

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).

6.1.2. Relevant National Policy Objectives (NPOs) include:

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

- 6.1.3. In relation to the role of employment, Balbriggan, Navan, and Portlaoise, are cited as Ireland's three fastest growing large towns between 1996 and 2016 where the population has grown rapidly, without equivalent increases in jobs.

6.2. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

- 6.2.1. The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. There is a renewed focus in the Guidelines on, inter alia, the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.

- 6.2.2. The site is in an urban extension location. Residential densities in the range 30dph to 50dph (net) shall generally be applied. This is further addressed in section 8.2 of this inspector's report.

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

- 6.3.1. 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.

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

- 6.4.1. 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.

6.5. Design Manual for Urban Roads and Streets (DMURS) (2019)

- 6.5.1. The manual seeks to address street design within urban areas by setting out an integrated design approach. It is an aim of the manual to put well designed streets at the heart of sustainable communities. Street design must be influenced by the type of place in which the street is located and balance the needs of all users.

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

- 6.6.1. 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.

6.7. Fingal Development Plan 2023-2029

- 6.7.1. Balbriggan is identified as a 'Self Sustaining Town' and it is described on page 86.
- 6.7.2. The proposed residential area of the site is zoned 'RA - Residential Area', with a zoning objective to 'Provide for new residential communities subject to the provision of the necessary social and physical infrastructure'. A 'Road Proposal' route is shown in a north-south orientation through the residential zoned area. The proposed class 1 public open space area of the site is zoned 'OS - Open Space', with a zoning objective to 'Preserve and provide for open space and recreational amenities'. A number of 'Sites and Monuments Record (SMR)' objectives are identified within the overall site.
- 6.7.3. The 'vision' for 'RA – Residential Area' zoning is 'Ensure the provision of high quality new residential environments with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities'. Use classes permitted in principle include 'residential', 'childcare facilities', and various 'retail' uses. The 'vision' for 'OS – Open Space' zoning is 'Provide recreational and amenity resources for urban and

rural populations subject to strict development controls. Only community facilities and other recreational uses will be considered and encouraged by the Planning Authority'. Use classes permitted in principle include 'recreational/sports facility'.

6.7.4. Objective CMO41 seeks to implement the transportation schemes indicated in table 6.3. One of these schemes is 'Balbriggan Ring Road R122 to R132'. The Council's third reason for refusal states that the proposed development would contravene materially this objective.

6.7.5. Chapter 14 (Development Management Standards) includes section 14.6.3 (Residential Density). This states that, in general, the density and number of dwellings to be provided within residential schemes should be determined with reference to the Sustainable Residential Development Guidelines (2009). These have now been superseded by the Compact Settlement Guidelines (2024). The Plan does not outline any specific density parameters.

6.8. Natural Heritage Designations

6.8.1. The nearest designated area of natural heritage is North West Irish Sea special protection area (SPA) approx. 1.6km to the east.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The first party grounds of appeal can be summarised as follows.

- No fundamental objections were raised by any of the local authority's internal departments. Some eminently resolvable issues were identified. However there was no mechanism to address these, and the planning authority was compelled to refuse permission being restrained by LRD legislation which precludes seeking clarification of further information.
- The only item of substance in the refusal is reason two and, even though the data was sufficient for the planning authority to make a determination, an updated NIS is submitted with the appeal.

- There is an extant permission on site (F08A/1329/E1). While this permission could have been acted upon, the applicant's 'aspiration was to improve the overall quality of development ... aligning the development with modern design standards and guiding policy requirements'.
- Commentary in the second Planning Report clearly indicates the merit of the proposal, yet the first reason for refusal contradicts this.² The Parks Department raised no issues regarding public open space that warranted anything close to a refusal of permission. It is difficult to see how the refusal reasons were favoured over appropriate conditions.

Refusal reason no. 1

- *Public open space and landscaping* – The assertion that the scheme fails to provide high quality public open spaces bears no relation to the detail of the proposal and contradicts the Parks and Planning Reports. Over 5.1 hectares open space is proposed, well in excess of minimum requirements. All spaces are appropriately overlooked, well-connected, and fully consistent with requirements. Each concern raised by the Parks section could have been resolved by condition. Each issue raised by Parks is responded to in the grounds of appeal and alternative design options suggested.

Detail of 13 no. tree pits which were referenced by the Parks section is clarified. The applicant contends that play provision in the alternative design options complies with Development Plan standards. The class 1 public open space is solely to satisfy this development and has not been committed as public open space to any other permitted or proposed scheme.

- *Phasing arrangements* – The comments in the refusal reason are inaccurate and any phasing could have been conditioned. The applicant committed to delivery of the link road within the red line boundary, and upgrade of the Boulevard/Naul road, as part of the first phase of development, as well as 196 no. residential units and three class 2 public open space areas, which is more than sufficient open space in advance of the delivery of the class 1 space. Delivery of adjacent class 1 space previously developed by the applicant and soon to be taken in charge, and front-

² The applicant is referring to page 52 of the second Planning Report which relates to EIA.

loading of roads infrastructure in phase 1 of the proposed development, is sufficient to serve phase 1 and the surrounding area pending the provision of the proposed class 1 space in phase 2. Notwithstanding, a revised phasing strategy includes the class 1 space in phase 1. In any event, phasing can be suitably conditioned.

Refusal reason no. 2

- Though a full set of wintering bird surveys does not alter the lack of importance of the site to SPA qualifying interests (QIs), additional surveys were carried out in December 2023 and January 2024. An updated NIS is submitted with the grounds of appeal as is a brief response letter from Altemar. Judicial commentary relating to wintering birds data is also referenced.

Refusal reason no. 3

- The Council's Transportation section did not recommend a refusal on the basis of the commitment made by the applicant to transfer land, at no cost, to facilitate full completion of the C-Ring. The applicant's intentions are very clear that land will be ceded to the Council at no cost, should permission for LRD0006/S3 be granted. The applicant is perplexed by comments in the second Planning Report relating to the transfer of this land and the refusal reason given the applicant's history of transferring land, the clear provisions of a signed letter, and the possibility of attaching an appropriate condition.
- With regard to objective CMO41, the refusal reason inhibits the fulfilment of the objective because granting the application would have been the swiftest way to implement it.
- The applicant has submitted draft legal documents to provide additional comfort to the Board on this issue.

Accompanying appendices

- 7.1.2. Appendices C and D, respectively, contain alternative architectural and landscape design options drawings. A revised 'Appropriate Assessment Screening & Natura Impact Statement' (AA Screening & NIS) and a response letter, both prepared by Altemar and both dated 14th March 2023, comprises appendix E, and a suite of legal

documents prepared by LK Shields relating to the transfer of the land adjacent to the south of the main site area are attached as appendix F.

7.2. Planning Authority Response

- The planning authority remains of the view that the development gives rise to a number of concerns and would be deficient in the timely delivery and phasing of necessary and supporting infrastructure and would fail to contribute to achievement of enhanced connectivity and sustainable travel opportunities in the north west Balbriggan area. It would result in a substandard, poor-quality environment.
- Matters of concern raised in the LRD Opinion remain unresolved e.g. the southern alignment and layout of the C-Ring, achievement of wider connectivity, and phasing arrangements to ensure the timely delivery of open spaces and housing in an orderly manner.
- Insufficient information was available as part of the planning application to enable the planning authority to determine the proposed development would not adversely affect the integrity of nearby European sites.
- The Board is requested to uphold the planning authority decision.
- Should the appeal be successful, provision should be made for a section 48 financial contribution and/or bond.

7.3. Observations

7.3.1. Two observations have been received.

1. Balbriggan Community Council, c/o Alice Davis (Chairperson), 14 Hampton St., Balbriggan
2. KT Designs Architectural & Planning Consultants on behalf of Residents of Flemington Park, The Hastings, and Taylor Hill, Balbriggan

7.3.2. The main issues raised can be summarised as follows.

Balbriggan Community Council

Land

- Excessive height
- Inadequate existing infrastructure for phase 1.
- Concern over the capability of the fire service to serve the proposed development.
- 1 and 2-bed apartments are not required. 3-bed plus family homes are required.
- Bungalows, houses, and low apartment complexes provide housing options more suitable for families, the elderly, and those with mobility difficulties.
- Management company fees add to expense for residents.

Density

- The proposed density is excessive for a town.
- The layout needs to be changed to facilitate safe play areas. A garden, car parking including for EV, and bin storage is needed for each unit.

Traffic/transport

- Town bus services are limited / public transport to Dublin, Drogheda, and Dundalk is already oversubscribed at peak times.

Facilities/services

- Concern expressed at current medical service provision.
- Query over school places.
- Concern over lack of services and facilities for young people. It is suggested that commercial units could be used as a youth café, gym etc.
- People live in Balbriggan and work in Dublin. Bodies such as the IDA need to seek employment for the town, to reduce commuting and improve quality of living.
- There is a lack of recreational activities for current residents e.g. restaurants.
- There is a lack of non-food shopping options in Balbriggan.

The building of more homes for the community is welcomed, but a needs based approach is required. There is a shortage of three bedroom plus homes and smaller homes. The proposed development would perpetuate existing problems of a disjointed town with no clear centre, vacant units on Main St., and a large proportion of the population working, shopping, and spending their leisure time outside Balbriggan.

Residents of Flemington Park, The Hastings, and Taylor Hill

- The refusal of permission by Fingal Co. Co. was welcomed. In future, the town may have had the investment needed e.g. Dart+ Coastal North, C-Ring road, widening of the Naul road, and enhanced social and recreational infrastructure, and a development proposal could be re-visited.
- The proposed greenfield development is not consistent with the compact growth objective of the NPF.
- The Office of the Planning Regulator has called for a Local Area Plan to be prepared for Balbriggan and permitting a LRD in the absence of this is not going to benefit the town and is not a plan-led approach.
- Concern expressed about the dead-end/not fully connected road infrastructure. The observation refers to ABP-308475-20³ in this regard. The development of these lands is premature until the C-Ring road has been completed.
- There is still no class 1 open space land in north west Balbriggan open to the public.
- A housing crisis does not justify ignoring the NPF, RSES, and Development Plan.

7.4. Further Responses

- 7.4.1. The Board required the applicant to re-advertise the proposed development because of the submission of a revised NIS with the application. Two further observations were received within the submission period, one from a local resident on behalf of residents

³ This is a strategic housing development (SHD) Pre-Application Consultation Opinion for 582 no. residential units (comprising 444 no. houses and 138 no. apartments), childcare facilities, and associated site works. The observation states that 'An Bord Pleanála has previously raised this very issue with the applicant' and cites two road-related bullet points in the Inspector's Report for ABP-308475-20. However, the inspector was summarising the local authority's submission to the Board and the bullet points were set out in that context.

in The Hastings and the second from a resident of Hastings Green. Neither of these raise any issues that have not been summarised in paragraphs 4.4 or 7.3 of this inspector's report.

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 issues that are not more appropriately addressed in the EIA, and it should be read in conjunction with both the EIA and AA sections.

Many of the issues raised in third party submissions e.g. bus services, employment opportunities, condition of the town centre, and preparation of a Local Area Plan, are comments more appropriately directed to the local authority and/or other authorities. The Board assesses the proposed development, as presented in the application for permission, and considers it in the context of the applicable planning framework and whether it would or would not be consistent with the principle of proper planning and sustainable development.

Having examined the application details and all other documentation on file, including the third party submissions, 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
- Density and Height
- First Reason for Refusal
- Second Reason for Refusal
- Third Reason for Refusal
- Permeability
- Site Layout, Design, and Residential Amenity for Future Occupants

- Impact on Existing Residential Amenity
- Ten-Year Permission
- Principle of Demolition

8.1. Zoning

- 8.1.1. The zoning for Balbriggan is set out on sheet no. 4 of the Fingal Development Plan 2023-2029 zoning objectives map. The area subject of the proposed residential development is zoned 'RA - Residential Area'. A 'Road Proposal' route is shown in a north-south orientation through this area of the site. Though the road proposal line does not exactly match that of sheet no. 4 in terms of the location of its connection to Flemington Lane, the local authority has not mentioned this as a concern. The area subject of the proposed class 1 public open space is zoned 'OS - Open Space'.
- 8.1.2. Use classes permitted in principle on 'RA' zoning include 'residential', 'childcare facilities', and various 'retail' uses. Use classes permitted in principle on 'OS' zoning includes 'recreational/sports facility'.
- 8.1.3. I note the observation from the Residents of Flemington Park / The Hastings / Taylor Hill that statutory documents should not be ignored, and houses put wherever a landowner decides to apply for permission. Apart from the fact that there is an extant permission on this site from 2008, albeit expiring next February, the site is appropriately zoned for the proposed development and this zoning was made in the 2023 Development Plan. Section 1.7 of the Plan states 'The Plan has been prepared in accordance with the requirements of the Planning and Development Act 2000, (as amended), higher tier international, national and regional level plans, ministerial guidelines and with regard to local level strategies and plans'. I consider that this is a plan-led development, appropriately phased so as to incorporate physical and recreational infrastructure.
- 8.1.4. Having regard to the foregoing, I consider that the principle of development is acceptable, subject to the detailed considerations below.

8.2. Density and Height

- 8.2.1. The density of the proposed development and the proposed height of some of the buildings are issues raised in third-party observations. These issues are linked but can be individually considered as follows.

Density

- 8.2.2. There is an onus on relevant authorities to ensure that residential development is carried out at a suitable density to ensure the appropriate development of land. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) and the Fingal Development Plan 2023-2029 are relevant documents in this regard.
- 8.2.3. In my opinion, the relevant settlement type for Balbriggan in the 2024 Guidelines is Key Towns and Large Towns (5,000+ population). On page 137 of the EIAR the applicant refers to the application site as being, inter alia, in a central area. However, the subject site is clearly in an urban extension area. As set out in the Guidelines, 'urban extension refers to greenfield lands at the edge of the existing built-up footprint area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that residential densities in the range 30 dph to 50 dph (net) shall generally be applied at ... urban extension locations of Key Towns and Large Towns ...'
- 8.2.4. As per section 6.7.5 of this inspector's report, the Development Plan does not provide any specific density ranges but states that the Sustainable Residential Density Guidelines (2009) should be referred to. These 2009 Guidelines have been replaced by the 2024 Compact Settlement Guidelines.
- 8.2.5. The total site area is cited as 22.62 hectares with a net site area of 16.057 hectares. In section 2.1.1 of the Statement of Response to FCC Pre-Application Consultation Opinion the applicant states that the net area was calculated by subtracting the areas of the class 1 open space (2.86 hectares), the Boulevard/R122 junction (0.48 hectares), the C-Ring land take (1.813 hectares), and an Irish Water wayleave of 1.41 hectares (which does not appear to be illustrated in the application documentation). I consider the deduction of these areas from the gross site area to be acceptable. 564 no. units on a 16.057 hectares site gives a net density of approx. 35.1dph, which is

comfortably within the lower range of the Compact Settlement Guidelines (2024)⁴ and a density which I consider to be acceptable.

Height

- 8.2.6. The proposed development includes two and three storey houses, two and three storey duplex units, and three to five storey apartment blocks. It appears that only one of the apartment buildings, block HC3, is five-storeys in height, and the fifth storey only contains a core stairs/lift circulation area approx. 50sqm in area.
- 8.2.7. Having regard to the nature of existing development in the vicinity, I do not consider that the proposed buildings are notably higher than the prevailing building height. For example, there are three storey structures on Hastings Green and Bremore Pastures Park less than 100 metres from the site boundary, and there is a four storey structure on Hamlet Lane less than 500 metres from the site.
- 8.2.8. Paragraphs 3.6-3.7 (Building height in suburban/edge locations (City and Town)) of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) state ‘Development should include an effective mix of 2, 3 and 4-storey development which integrates well into existing and historical neighbourhoods and 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets. Such development patterns are generally appropriate outside city centres and inner suburbs, i.e. the suburban edges of towns and cities, for both infill and greenfield development and should not be subject to specific height restrictions. Linked to the connective street pattern required under the Design Manual for Urban Roads and Streets (DMURS), planning policies and consideration of development proposals must move away from a 2-storey, cul-de-sac dominated approach, returning to traditional compact urban forms which created our finest town and city environments’. The provisions of specific planning policy requirement (SPPR) 4 of the Guidelines are set out after paragraphs 3.6-3.7. This states, in summary, that at greenfield, edge-of-town locations, minimum densities and a greater mix of building heights and typologies must be secured, and mono-type building typologies must be avoided, particularly in developments of over 100 no. units.

⁴ Excluding the Irish Water wayleave would result in a net density of approx. 32.3dph which would also be within the acceptable density range.

8.2.9. In my view the proposed development is consistent with the prevailing pattern of building height in the vicinity of the site, and it is also consistent with the provisions of the Building Height Guidelines, and in particular SPPR 4. I have no concern in relation to the building heights proposed.

8.3. First Reason for Refusal

8.3.1. The first reason for refusal is,

The design and layout of the proposed development, particularly in relation to its failure to provide for high quality public open spaces; the unresolved nature of the southern alignment and layout of the C-Ring/Spine Road and achievement of wider connectivity opportunities and given the deficiencies in the establishment of appropriate phasing arrangements, would result in a substandard residential development providing a poor-quality environment for future residents; which would be deficient in the timely delivery of necessary and supporting infrastructure, and would fail to contribute to the achievement of enhanced connectivity and sustainable travel opportunities to serve northwest Balbriggan. The development would therefore seriously injure the amenities of future residents of the scheme and would seriously injure the amenities of property in the vicinity of the site. The development would therefore be contrary to the proper planning and sustainable development of the area.

8.3.2. Therefore, the refusal reason is based on three specific elements: (i) the proposed design and layout, particularly open space, (ii) the C-Ring and connectivity opportunities, and (iii) phasing.

Design & layout (open space)

8.3.3. Item 6 of the local authority's further information request of 5th September 2023 related to open space issues. The applicant's response in relation to subsection (a) described one class 1 local park, nine pocket parks, and two small parks in the context of the thresholds of table 14.11 of the Fingal Development Plan 2023-2029. It included a supporting addendum from Courtney Deery to the effect that, with mitigation, subsurface archaeological features at open space 4 would be protected. In response to 6 (b), a playground was relocated. In reply to subsection (c), the applicant reiterated that the class 1 open space was to be provided in phase 2 of the proposed development.

- 8.3.4. The local authority's Parks Division submitted a report based on the further information response. The local authority's second Planning Report refers to the open space areas in the context of, inter alia, having the appearance of left over space, the dominance of SuDS, the proximity of bin stores, bike stores, and car parking, separation distances between playgrounds and residential units, and lack of clarity. The local authority considered the design, layout, and quality of open space did not meet standards and this, plus the absence of class 1 open space in the first phase, would result in a substandard residential development. The local authority considered these issues could not be addressed by conditions.
- 8.3.5. In the grounds of appeal, the applicant refutes the assertion that there has been a failure to provide high quality open spaces, as stated in the refusal reason. The quantity (5.1 hectares) and quality of the open spaces is referenced, and the applicant is of the opinion that any concern could have been resolved by condition. The grounds of appeal also note an apparent conflict between this reason for refusal and the content of page 52 of the Planning Reports which states, 'In conclusion, it is agreed that the Proposed Development has been carefully designed, taking into consideration the site context and existing and planned neighbouring commercial and residential properties and the local environmental conditions ...'
- 8.3.6. The applicant has suggested the removal of 13 no. houses in the north east corner to allow for a larger open space area at this location. Less significant amendments have been suggested for other open space areas such as the addition of a play area, improvement of recreational facilities, identification of boundary treatments, and amended ground levels. It is stated that separation distances of 25 metres from play areas to houses is generally achieved and clarity has been brought to certain issues raised e.g. retaining wall and footpaths.
- 8.3.7. Having regard to the content of the further information request and response, the local authority's Planning Report, and the content of the grounds of appeal, I am of the opinion that the open space areas are generally acceptable in their original form. It is my view that many of the valid concerns expressed by the local authority e.g. separation distances of play areas from residential units and boundary treatments, can be suitably addressed by way of a compliance condition. These issues would not affect any third parties and I do not consider them fundamental issues in the context of the overall application.

8.3.8. With regard to the provision of SuDS features in open space areas, appendix A (Glossary of Terms) of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) defines public open space as including 'areas used for Nature-based Urban Drainage and other attenuation areas where they form part of an integrated open space network ... may include smaller retention basins that are integrated into and form part of the open space and landscaping scheme'. Therefore, the use of open space areas for SuDS is acceptable.

C-Ring and connectivity

8.3.9. I note initially that there is significant overlap between this issue and the third reason for refusal.

8.3.10. Despite a further information response stating that the area of land under the applicant's ownership, between the southern end of the subject site and Clonard Road, would be ceded to the local authority on receipt of a grant of planning permission, the second Planning Report states that 'the response continues to give rise to an element of doubt as to the manner in which this issue is to be resolved ... The enforceability of any agreement to transfer such lands, given they are outside of the planning application boundary, is therefore called into doubt. This long-standing matter therefore continues to be unresolved and fails to ensure the delivery of a connected road network and enhanced sustainable travel opportunities within northwest Balbriggan ...' (page 68).

8.3.11. The applicant's grounds of appeal notes initially that there is no objection to the alignment of the infrastructure proposed, and the Transportation Section did not recommend a refusal of permission on the basis of the commitment to transfer the land, at no cost, to facilitate the full completion of the C-Ring. The applicant states its intentions in this regard were very clear. The applicant considers that a condition could have been attached in line with section 34(4) of the Planning & Development Act, 2000 (as amended).

8.3.12. I consider that this issue could have been resolved with the attachment of an appropriate condition. I note the Transportation Planning Section report prepared on foot of the further information response states that it has no objection to the proposed development subject to conditions. Recommended condition no. 3 is 'Land within the applicant's ownership to the south of the proposed C-Ring design shall be ceded to

Fingal County Council as outlined in the letter dated 2nd December 2023 from Dean Swift Property Holdings submitted in response to the request for additional information'. In addition, no particular concern was expressed in relation to the alignment and layout of the road.

- 8.3.13. I am somewhat unclear as to what is meant by the 'achievement of wider connectivity opportunities' in the wording of the refusal reason. The local authority's issue appears to relate to the transfer of the area of land adjacent to Clonard Road. The proposed development would be well connected without the completion of the C-Ring; to Flemington Lane, Hamlet Lane, the Boulevard, and the adjacent park/open space area to the west, as well as the tertiary permeability routes proposed to existing residential areas. The construction of the remainder of the C-Ring is a matter for the local authority and it does not appear to have been the case at any stage that the applicant would construct the C-Ring as far as Clonard Road or beyond. Therefore, I do not consider the proposed development would suffer the loss of any particular connectivity opportunities.

Phasing

- 8.3.14. The concern in this regard appears to relate to the provision of the class 1 open space, the provision of the C-Ring, and upgrade of the Boulevard/R122 junction.

Class 1 open space

- 8.3.15. As item 6 (c) of the further information request the applicant was asked to reconsider the delivery of the class 1 open space as part of phase 2. However, the applicant considered the provision of the road infrastructure in phase 1 to be sufficient and remained of the opinion that it was appropriate to provide this open space area as part of phase 2.

- 8.3.16. However, as part of the grounds of appeal, the applicant has now included the class 1 open space as part of phase 1 of the proposed development.

Infrastructure

- 8.3.17. Item 3 of the local authority further information request related to the proposal to provide the C-Ring on a phased basis in accordance with the phasing of the residential areas. The local authority considered this should be provided in its entirety in the first phase. Subsection (c) related to the ceding of land in the applicant's ownership to

enable connection to Clonard Road. Item 4 related to the timing of the junction upgrade works.

- 8.3.18. In response, the applicant agreed to construct the C-Ring and junction upgrade in phase 1. For 3 (c), the applicant confirmed the land would be ceded to the local authority in the event of a grant of permission.
- 8.3.19. The applicant's grounds of appeal note the commitment made regarding the delivery of the C-Ring within the red line boundary, which it describes as 'an immediate, significant, and frontloaded investment ...' The junction upgrade is also included in the first phase of development.

Conclusion

- 8.3.20. The refusal reason identifies a number of different elements and ties them into a single reason. This reason partially overlaps with the third reason for refusal. The local authority submitted a response to the grounds of appeal. In it, the authority reiterated its position as set out in its decision. No reference was made to any of the amendments suggested or comments made in the grounds of appeal.
- 8.3.21. In my opinion, the general design and layout of the proposed development is acceptable (this is expanded on in section 8.7 of this inspector's report). Specifically with regard to the open space I consider it to be acceptable in quantity and quality. The local authority has expressed concern in relation to certain elements of it. However, I do not consider that any of these concerns are such that they could not be appropriately addressed by way of a compliance condition.
- 8.3.22. I consider that the documentation, submitted both with the planning application and as part of the grounds of appeal, is sufficient to enable the attachment of a condition to the effect that the relevant area of land between the site and Clonard Road shall be transferred to the local authority prior to the commencement of any development on site. This would allow the local authority to progress the extension of the C-Ring to the Naul Road roundabout from the southern end of the subject development site. I do not consider that the proposed development is deficient in the 'achievement of wider connectivity opportunities'.
- 8.3.23. In terms of phasing the applicant has now included the class 1 open space as part of the first phase, along with the delivery of the C-Ring, and the upgrading of the

Boulevard/R122 junction. In my view, the provision of this combined infrastructure in the first phase is a positive element of the proposed development and it can be suitably conditioned. I do not see any particular failure or deficiency in the phasing proposals put forward.

8.3.24. I consider that these issues could have been addressed by the local authority by way of condition. I do not agree that the proposed development would, as cited in the refusal reason, result in a substandard residential development providing a poor-quality environment for future residents, be deficient in the timely delivery of infrastructure, fail to contribute to enhanced connectivity and sustainable travel opportunities, seriously injure the amenities of future residents, or seriously injure the amenity of property in the vicinity.

8.3.25. Having regard to the foregoing, I do not consider that the local authority's first reason for refusal is justified.

8.4. Second Reason for Refusal

8.4.1. The second reason for refusal is,

Insufficient information is available to the Planning Authority to enable it as the competent authority to determine whether the proposed development individually, or in combination, with other plans or projects would not adversely affect the integrity of nearby European Sites or their qualifying interests. Accordingly, the planning authority cannot conclude beyond reasonable doubt that the development would not impact Natura 2000 sites in the vicinity or have a detrimental impact on their qualifying interests. The Planning Authority is therefore precluded from granting permission for the proposed development.

8.4.2. I have carried out AA of the proposed development in section 10 (Appropriate Assessment (AA)) of this inspector's report and I have concluded that that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of North-West Irish Sea SPA, or any other European site, in view of the site's conservation objectives. Therefore, I consider that this reason for refusal has been addressed.

8.5. Third Reason for Refusal

8.5.1. The third reason for refusal is,

The proposed development, having regard to the lack of clarity in relation to the transfer of lands to the south of the site which would assist in the timely delivery of transportation schemes and provision of enhanced connectivity and sustainable travel opportunities to serve northwest Balbriggan, would contravene materially Objective CMO41 of the Fingal Development Plan 2023-2029 which sets out the Council's proposals for the development of the County's transportation network. The development as proposed would therefore be contrary to the proper planning and sustainable development of the area.

8.5.2. This reason for refusal partially overlaps with the first reason for refusal. Paragraphs 8.3.9-8.3.13 of this inspector's report should be read in conjunction with this section.

8.5.3. In my opinion, the documentation submitted with the application and the grounds of appeal make it clear that it is the applicant's intention to facilitate the transfer of the relevant area of land to the local authority on receipt of a grant of permission. I consider this to be reasonable and I am unclear as to why this was not conditioned by the local authority. I note the Transportation Planning Section recommended a condition to this effect. I consider it is appropriate to condition same subject to it being transferred prior to the commencement of any development on site.

8.5.4. On foot of the transfer of this area of land the local authority would be in a position to progress work to connect the proposed C-Ring through the subject site to the Naul Road Roundabout as set out in sheet no. 4 of the Fingal Development Plan 2023-2029. In the interim, I do not consider that the absence of the C-Ring completion would have any undue adverse impact on connectivity or sustainable travel opportunities given the new vehicular, pedestrian, and cycle links to and from the site to the wider area as provided by the proposed development.

8.5.5. The reason for refusal states that the lack of clarity in relation to the transfer of the land would contravene materially objective CMO41 of the Development Plan. This objective seeks to implement the transportation schemes indicated in table 6.3. This table includes 'Balbriggan Ring Road R122 to R132'. I do not consider that CMO41 would be materially contravened because the proposed development does not inhibit

the implementation of this project. On the contrary, the proposed development significantly contributes towards the achievement of this objective through the construction of approx. 1km of the road and the provision of an additional area of land adjacent to Clonard Road to facilitate its further extension. Therefore, I consider the term 'contravene materially' has been inappropriately used in this case and the Board should not consider itself constrained by section 37(2) of the Planning & Development Act, 2000 (as amended).

8.5.6. Having regard to the foregoing, I do not consider that the local authority's third reason for refusal is justified.

8.6. **Permeability**

8.6.1. The proposed tertiary/filtered permeability from the development into adjoining residential areas is one of the main concerns expressed by third parties, particularly in relation to impact on residential amenity/privacy and the potential for facilitation of anti-social behaviour.

8.6.2. The second local authority Planning Reports states, 'failure to provide for adequate connectivity between the proposed scheme and extant residential developments would be remiss and counter to best practice in ensuring high levels of connectivity between new and existing communities, enabling access by sustainable/active modes and lessening travel times' (page 37). The NTA submission on the application states, inter alia, 'The use of filtered permeability at locations throughout the site is also welcomed and it is submitted that there is potential for further filtered permeability points as part of this development to support walking and cycling as the most desirable mode for short trips in this area'.

8.6.3. In considering the residents' concerns I note initially that the broad concept of permeability in urban areas is widely encouraged and supported in the planning framework. For example:

8.6.4. Objective CSO52 of the Fingal Development Plan 2023-2029 is 'Ensure all Self-Sustaining towns benefit from safe and convenient road, pedestrian and cycle systems which promote permeability, accessibility, and connectivity between existing and new developments'.

- 8.6.5. Objective CMO19 of the Plan is ‘Support and facilitate improvements to the pedestrian and cycle network and public realm that prioritise the removal of barriers to active movement, to improve connectivity and permeability and optimise accessibility for all users’.
- 8.6.6. Page 187 of the RSES, in relation to guiding principles of land use plans, states ‘New development areas, including peripheral areas, should be permeable for walking and cycling and the retrospective implementation of walking and cycling facilities should be undertaken in existing neighbourhoods, in order to a give competitive advantage to these modes. Where possible, developments shall provide for filtered permeability’.
- 8.6.7. Section 4.4 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) outlines the key indicators of quality design and placemaking. One of these is ‘sustainable and efficient movement’ and one of the key principles to be considered in planning applications is ‘New developments should connect to the wider urban street and transport networks and improve connections between communities, to public transport, local services and local amenities such as shops, parks and schools, where possible’.
- 8.6.8. I consider that the planning framework encourages permeability between proposed and existing developments. The proposed filtered permeability would, inter alia, provide easier and more convenient access to open spaces and childcare facilities for residents of the Hastings and Flemington Park, and allow quicker access to the existing wider urban area to residents of the proposed development. At its most basic level, the proposed filtered permeability would allow residents of three separate developments i.e. Flemington Park, Hastings, and the proposed development, to visit each other and interact, fostering a wider community without having to travel longer distances along busier public roads.
- 8.6.9. Concern is expressed about the impact of permeability on the privacy of current properties and the facilitation of anti-social behaviour. I acknowledge that the permeability links would create additional movement in areas where no such movement currently exists, and the attraction of some houses may originally have been because of their cul-de-sac locations. However, the permeability link users would use existing footpaths and roads and views would not be available to any area which is not currently visible from public areas to the front or sides of houses. Therefore, I do

not consider that undue invasion of privacy would occur from the use of the footpaths and roads by non-residents. I consider that the proposed interconnections would generate sufficient activity to justify the filtered links, they would be appropriately passively supervised by existing and proposed houses in immediate proximity, and there would not be 'hiding' opportunities or longer passages or alleyways where anti-social activity could be carried out beyond the view of the general public. The proposed development itself would not create or increase anti-social behaviour and I do not consider this is an appropriate reason to remove the proposed permeability.

8.6.10. In terms of other potential permeability links, I note that page 61 of the Design Statement Phase 3 Masterplan document submitted as part of F22A/0670 for the adjoining Folkstow Park development, which is under construction, illustrates a number of filtered permeability connections directly to the C-Ring. In the north west corner of the site layout plan for the current application, a 'future vehicular connection into neighbouring site' is identified to the north of the existing/proposed class 1 open space area. A second future vehicular connection is identified between the Tanner's Lane character area and Taylor Hill Grange to the east of the site. It is not clear why this was not proposed in the current planning application.

8.6.11. Having regard to the foregoing, I consider the proposed permeability links are acceptable and appropriate and they are encouraged and supported by the relevant planning framework. The focus of the grounds of appeal are based on perceived negative implications of permeability rather than the benefits of permeability. Permeability can result in social benefits where neighbours who are in some cases only metres apart can interact, fostering a community atmosphere, rather than being physically divided by estate walls.

8.7. Site Layout, Design, and Residential Amenity for Future Occupants

8.7.1. This section assesses relevant aspects of the proposed development that would affect the amenity of residents. I have addressed some relevant issues such as open space (section 8.3) and permeability (section 8.6) elsewhere in this Planning Assessment. The application documentation includes a Design Statement (DS), a Character Areas & Materials (CAM) document, a Statement of Consistency & Planning Report, and a

Verified Views and CGI document which all contain numerous photographs and images illustrating the layout and design of the proposed development.

Site layout

- 8.7.2. The layout is somewhat constrained by the location of the C-Ring as per the Fingal Development Plan 2023-2029 and by subsurface archaeology. This archaeology is preserved at open space 4 and adjacent to the class 1 open space. The open space areas are well overlooked and there are active frontages along the road network. I consider that permeability, through the site itself and with adjoining areas, and facilities for vulnerable road users i.e. pedestrians and cyclists, are acceptable. Residential amenity is increased by the proximity of existing and proposed class 1 open spaces and sports facilities to the west.
- 8.7.3. There are three nodes/'anchor points' proposed, according to the DS, at the Boulevard / C-Ring junction, Hampton Park (the primary node), and Flemington Park, and these provide a concentration of activities and contribute to placemaking. These are described in sections 6.1-6.3 of the DS. The apartment buildings, creches, and commercial units are clustered around these three nodes.
- 8.7.4. The consistency of the proposed development with DMURS is set out in paragraph 9.90 of this inspector's report. While the proposed development is generally consistent with this, I consider that shared surface areas are wider than DMURS standards.

Architectural design and visual impact

- 8.7.5. Five character areas are proposed and are described in the CAM document.
- Hampton Park South – The apartment building, five duplexes, and 71 no. houses have a red brick and render finish.
 - Hampton Park Central – The three apartment buildings, seven duplexes, 88 no. houses, and childcare facility have a light brick and render finish. One of the apartment blocks and two duplexes have a red brick finish.
 - Tanner's Lane – The apartment building, three duplexes, and 36 no. houses have a brick and render finish with light stone to two duplex buildings.
 - Hampton Park North – The two apartment buildings, eight duplexes, 84 no. houses, and childcare facility have a brick and render finish.

- Flemington Park – The three apartment buildings, five duplexes, 99 no. houses, and childcare facility have a various colour brick and render finish. The apartment buildings also have a light stone finish.

8.7.6. Page 2 of the CAM document summarises the differences in brick colours in the different character areas.

8.7.7. Having regard to the CAM document and the elevation drawings of the various apartment and duplex buildings, the houses, and the childcare facilities, I consider that they are appropriately designed with a number of variations and styles (the childcare facilities in particular), are visually interesting, provide a reasonable mix of designs, and would provide active frontages to roads and passive surveillance to open space areas. An appropriate urban edge is provided where the main road junctions occur on site i.e. the three node areas referenced in paragraph 8.7.3. CGIs and photomontages are provided in a separate booklet and I consider that these, along with other images in the application documentation, illustrate a contemporary, relatively low density, housing development. While there would always be a substantial change to the receiving environment when agricultural land is changed to a residential area, I consider that the architectural design and visual impact of the proposed development is acceptable.

Housing mix

8.7.8. The proposed development proposes 57 no. 1-bed units, 230 no. 2-bed units, 263 no. 3-bed units, and 14 no. 4-bed units in a mixture of 102 no. apartments, 84 no. duplexes, and 378 no. houses. Objective CSO17 of the Fingal Development Plan 2023-2029 is to 'Promote high quality residential development which meets the needs of all stages of the life cycle through an appropriate mix of house type and local amenities'. I consider the proposed housing mix to be acceptable.

Residential amenity

8.7.9. In terms of residential amenity the proposed development can be assessed under the subheadings of house floor areas, private open space areas for houses, duplex units, and apartments. The following is based on the Housing Quality Assessment and floor plan and elevation drawings submitted with the original planning application.

House floor areas

- 8.7.10. Apart from the aggregate bedroom area of house type (HT) D being fractionally below standard and the aggregate bedroom area of HT H being 3.3sqm below standard, the houses otherwise comply with the provisions of table 5.1 of the Quality Housing for Sustainable Communities Guidelines (2007).
- 8.7.11. There are 127 no. HT D houses proposed. The 2007 Guidelines require an aggregate bedroom area of 25sqm for a two-storey, two-bed, four-person house and only 24.6sqm is provided. HT H is cited on drawing no. 1902-HSE H-0575 as a '4 bed/6 person house'. However, table 5.1 of the 2007 Guidelines only identifies a 4 bed/7 person house type with an aggregate bedroom area of 43sqm, less than the 39.7sqm currently proposed. This is the only four-bedroom house type proposed in the development and I consider it important to the housing mix that these are retained as four bedroom houses. I consider a compliance condition should be attached to increase the aggregate areas to the minimum recommended.
- 8.7.12. The Housing Quality Assessment states that the aggregate bedroom area for HT K is 31.6sqm i.e. below the 32sqm required. However, drawing no. 1902-HSE K-0585 shows 32sqm is achieved.

Private open space areas for houses

- 8.7.13. SPPR 2 of the Compact Settlement Guidelines reduced the private open space areas required for houses to 30sqm for a two-bed house, 40sqm for a three-bed house, and 50sqm for a four-bed house. The Housing Quality Assessment indicates that the minimum private open space area for each house is 60sqm, therefore private open space areas are acceptable.

Duplex units

- 8.7.14. There is a wide variety in the proposed duplex units in terms of type and design.
- Duplex E – This duplex block resembles a two-storey semi-detached house. There is a two-bed unit on the ground floor and a one-bed unit at first floor level. The overall floor areas, aggregate floor areas, and private open space areas comply with the Sustainable Urban Housing: Design Standards for New Apartments (July 2023).

- Duplex G – This duplex block resembles a two-storey detached house. It contains one-bed units on both floors. The overall floor areas, aggregate floor areas, and private open space areas comply with the 2023 Apartment Guidelines.
- Duplex L – This duplex block is part-two and part-three storeys in height. It contains 2 no. units; a three-bed unit on the ground/part first floor and a two-bed unit on the part-first floor/second floor. The overall floor area, aggregate floor areas, and private open space areas comply with the 2023 Apartment Guidelines.
- Duplex R – This red-brick block is part-two and part-three storeys in height. It contains 4 no. units; a one-bed unit and a two-bed unit on the ground floor, a two-bed unit on the first floor, and a three-bed unit on the part-first and second floors. The overall floor area, aggregate floor areas, and private open space areas comply with the 2023 Apartment Guidelines.
- Duplex R6 – This red-brick block is part-two and part-three storeys in height and is very similar to Duplex R (there are some fenestration differences). It contains 4 no. units; a one-bed unit and a two-bed unit on the ground floor, a two-bed unit on the first floor, and a three-bed unit on the part-first and second floors. The overall floor area, aggregate floor areas, and private open space areas comply with the 2023 Apartment Guidelines.
- Duplex N – This larger, three-storey, block contains 8 no. units; 4 no. three-bed units on the ground and part-first floors and 4 no. two-bed units on the part-first floor and second floors. There is a relatively complex internal arrangement to accommodate these eight units. The overall floor area, aggregate floor areas, and private open space areas comply with the 2023 Apartment Guidelines.

Apartments

8.7.15. The Sustainable Urban Housing: Design Standards for New Apartments (July 2023) contain a number of SPPRs and other standards relevant to apartment buildings. The proposed development compares to these as follows.

- SPPR 1 – This SPPR is complied with because fewer than 50% of the units in the housing development are one bedroom units (57 no. (10.1%)).
- SPPR 2 – This SPPR does not apply because this is not a building refurbishment scheme.

- SPPR 3 – This SPPR is complied with because minimum floor areas are provided.
- SPPR 4 – The Housing Quality Assessment indicates that 75 no. of the 102 no. (approx. 73.5%) apartments are dual aspect, in excess of the 50% required.
- SPPR 5 – Section drawings for the 10 no. apartments show ground floor floor to ceiling heights of 2.7 metres minimum.
- SPPR 6 – No apartment block has more than 12 no. apartments per core.
- SPPR 7 – The application is not for shared accommodation / co-living.

8.7.16. The SPPRs are therefore considered to have been complied with.

8.7.17. Appendix 1 of the Guidelines relates to floor areas and standards. The proposed development complies with these standards in relation to aggregate areas for kitchen/living/dining rooms, aggregate bedroom areas, storage area, and private open space.

8.7.18. Communal amenity space requirements of 5sqm for a one-bed and 7sqm for a two-bed is also included in appendix A. The applicant describes these open space areas on pages 97-99 of the Statement of Consistency and Planning Report document. Inter alia, the three Flemington Park character area apartments combine the communal open space because individually they would be too small to properly function. Other apartment blocks have dedicated communal amenity space or similarly share. I am satisfied that generally adequate communal amenity space is provided for the apartment residents, in addition to public open space areas.

Daylight and sunlight

8.7.19. The proposed development is not a high-rise development. The proposed buildings are two-three storey houses, two-three storey duplex units, and three-four storey apartment buildings with a very limited fifth storey element.

8.7.20. Objective DMSO22 of the Fingal Development Plan 2023-2029 is 'Require Daylight and Sunlight analysis for all proposed developments of 50+ units or as required by the Planning Authority, depending on the context of the site and neighbouring property as well as the design of the development'. The provisions of the Compact Settlement Guidelines (2024) are also relevant. Section 5.3.7 (Daylight) (a) states, inter alia, 'Planning authorities do not need to undertake a detailed technical assessment in

relation to daylight performance in all cases. It should be clear from the assessment of architectural drawings (including sections) in the case of low-rise housing with good separation from existing and proposed buildings that undue impact would not arise, and planning authorities may apply a level of discretion in this regard’.

8.7.21. A Daylight and Sunlight Assessment Report was submitted with the application. Scheme performance details are summarised on pages 6 and 7 of the document and there is a high compliance level. As set out in section 1.6 of BR 209:2022, ‘ The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design’.

8.7.22. Having regard to the provisions of both the Development Plan and the Compact Settlement Guidelines (2024), the relatively low-rise nature of the proposed development, the locations of the apartments in the three ‘nodes’, the high level of dual aspect compliance in the apartments, the relatively low density, and the results of the submitted Daylight and Sunlight Assessment Report, I do not consider that the proposed development would result in any undue daylight or sunlight impact to future residents.

8.8. Impact on Existing Residential Amenity

Third parties have referred to the impact of the proposed development on their residential amenity and it is necessary for the extent of this to be ascertained. I consider the following issues to be relevant: overlooking, overbearing impact, daylight and sunlight, construction nuisance, car parking, and devaluation of property.

Overlooking

8.8.1. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) include SPPR 1. This states, inter alia, that ‘When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained’. Separation distances below 16 metres may be considered in certain circumstances. This SPPR was not in force at the time the application was originally

received by Fingal Co. Co. (July 2023), but it was in force at the time the decision was made (February 2024).

8.8.2. I note initially that no undue adverse overlooking would occur from residential units along the northern, western, or southern boundaries because these units would overlook land in agricultural or recreational use. I do not consider that any undue adverse overlooking would occur to properties in the under-construction Folkstown Park development to the south east because of the presence of the C-Ring Road.

8.8.3. The potential for overlooking along the eastern boundary is set out in the following bullet points.

- In the north east corner adjacent to Flemington Park there are four end-of-terrace HT C houses. These have no first floor side elevation windows so no overlooking would occur. There is also a single semi-detached HT H along the boundary. This has a first floor side elevation landing window which drawing no. 1902-HSE H-0575 shows will have opaque glazing.
- Along the southern boundary of the Flemington Park character area there are rows of terraced houses, comprising HTs C/C1 and D, and a type L duplex. The rear/southern elevations of these units would face the side/rear of houses in Hastings. The houses all have first floor rear elevation bedroom windows, however all have rear garden lengths of approx. 11 metres. The duplex is three storeys in scale, with a separation distance of just under 7 metres from the site boundary, and there are habitable room windows proposed at second floor level. I consider this duplex unit would result in undue overlooking of private spaces to the rear of houses along Hastings Drive/Hastings Court, and would also not provide sufficient passive surveillance of the adjacent open space area to the east. I consider a revised duplex type should be provided at this location addressing both of these issues.
- Duplex block N2 is to the west of houses along Hastings Lawn at a distance of less than 8 metres. At first-floor level there are two kitchen/dining room windows on the side elevation. I consider that these two windows should be removed, or replaced by, for example, a high-level horizontal window, to address the potential for undue overlooking to existing houses. This room is also served by a large

terrace window/door so there is another source of daylight. A second floor side elevation window serving a bathroom is opaque.

The other duplex block (N3 and N4) and the three-story apartment building south of block N2 are sufficiently far away from the site boundary, approx. 26 metres minimum, that I do not consider undue overlooking would occur.

- Adjacent to the south of the existing road through the site which connects Hamlet Lane to the park area to the west of the site it is proposed to provide a line of ten HT J and K units parallel to the boundary with Bremore Pastures Drive, four parallel to Bremore Pastures Crescent, and four parallel to Taylor Hill Gardens. The separation distances to the various boundaries vary. There are first floor rear elevation windows facing onto the rear of existing properties, however the proposed windows serve bathrooms, en-suites, and landings. Elevation drawings show the bathroom and en-suites are to have opaque glazing. The landing windows are relatively substantial. I consider the landing windows along the eastern boundary should be amended to reduce overlooking impact by way of, for example, higher level windows.
- Between the HT J and K houses in the previous bullet point, there are a number of C and D HTs. These have first floor rear elevation bedroom windows. There is an approx. 11 metres separation distance to the site boundary, and a reasonable separation distance from that boundary to the existing houses, and I do not consider any undue overlooking would occur from these proposed houses.
- Duplex block R8 is located at the southern end of open space 6 and immediately north of Taylor Hill Garden. It is less than 5 metres from the boundary. I consider that the first floor south elevation is inappropriate given its proximity to the existing semi-detached house. The duplex unit has four kitchen/dining/living room (KDL) windows as well as a balcony on this elevation. I consider this floor plan and elevating should be amended to remove the overlooking potential from this unit.

8.8.4. Having regard to the foregoing, I consider that there is potential for undue overlooking impact to some existing houses as a result of the proposed development, but this can be addressed by way of a compliance condition.

Overbearing impact

- 8.8.5. The proposed development comprises two, three, and four storey houses, duplexes, and apartment buildings which are generally consistent with the existing pattern of development in the vicinity and in line with the provisions of the relevant section 28 Building Height Guidelines. The proposed density is on the lower end of the range set out in the Compact Settlement Guidelines (2024). I do not consider that the proposed development, notwithstanding any relatively limited increases in ground levels that there may be between existing properties and the proposed development, would result in an impact that could reasonably be considered as unduly overbearing.

Daylight and sunlight

- 8.8.6. The content of the 'Daylight and Sunlight' subheading, paragraphs 8.7.19-8.7.22 of this inspector's report, should be read in relation to this subheading as the same issues apply.
- 8.8.7. I note that daylight and sunlight in so far as it affects adjoining property was briefly referenced in the local authority's Planning Report. Page 37 states 'It is not considered that the height of the development (ranging between 2 and 5 storeys) gives rise to loss of residential amenity or potential for overshadowing or loss of light'.
- 8.8.8. A Daylight and Sunlight Assessment Report was submitted with the application. An impact assessment of the proposed development on the existing residential area is summarised on page 5 of the report and there is a very high compliance level.
- 8.8.9. Having regard to the provisions of both the Development Plan and the Compact Settlement Guidelines (2024), the relatively low-rise nature of the proposed development, the relatively low density, and the results of the submitted Daylight and Sunlight Assessment Report, I do not consider that the proposed development would result in any undue daylight or sunlight impact to existing adjoining property.

Construction nuisance

- 8.8.10. The construction phase of any development has a degree of nuisance to nearby receptors and this is an inevitable consequence of development. The size of the site is such that construction activity would not always be taking place adjacent to residential property. A construction management plan and CEMP would be included, as standard, in any grant of permission which would include mitigation measures to

reduce the impact of the proposed development on neighbouring areas as much as practicable.

Car parking

- 8.8.11. One of the concerns expressed by residents relates to the impact on existing car parking as a result of the proposed development and filtered permeability links. It is stated that car parking in the existing culs-de-sac is limited and would become more limited in the event of overspill parking from the proposed development and the removal of existing parking spaces from the culs-de-sac to facilitate the links.
- 8.8.12. The proposed development proposes 927 no. car parking spaces (806 no. residential, 94 no. visitor, 11 no. disabled, seven creche, and nine set down spaces). The Fingal Development Plan 2023-2029 has a standard of 988 no. spaces for the proposed development, so it is below the normal standard. The applicant justifies the reduction in car parking by citing the location, public transport, and the pedestrian and cyclist connectivity. Notwithstanding that I do not consider that the site can be considered 'well served by public transport (rail and bus services)' as stated on page 119 of the applicant's Statement of Consistency & Planning Report, I consider this rationale is consistent with the provision of SPPR 3 of the Compact Settlement Guidelines (2024) to justify the number of spaces proposed. I consider that a reduction in car parking standards can be applied. In this regard I note the NTA submission which states that 'a quantum of car parking spaces below the 'norm' value is appropriate in this case'. In addition, the first Transportation Planning Section report states that it 'would be satisfied with the overall car parking quantum', though comments were made in relation to the assignment of car parking spaces. Conditions were recommended in the second report. I do not consider that there is any concern in relation to proposed car parking provision. I consider that it would be unlikely, in practice, for future residents to park in locations outside of the proposed development and walk to their residences. Notwithstanding, an appropriate quantum of car parking is provided.
- 8.8.13. It is likely that any loss of car parking from existing culs-de-sac would be minimal and I do not consider that it would be a significant concern. I recommend that a condition be attached to any grant of permission that the design of the filtered permeability links be agreed with the local authority.

Devaluation of property

8.8.14. Having regard to the relevant zonings of the subject site, the location of the site within the boundary of Balbriggan, the existing pattern of development in the vicinity, the extant permission on site, 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.

8.9. Ten-Year Permission

8.9.1. The applicant has applied for a ten-year permission as per the public notices though does not appear to have provided any rationale for this length of a permission.

8.9.2. Section 7.4 of the Development Management Guidelines for Planning Authorities (2007) states 'Planning authorities may grant permission for a duration longer than 5 years if they see fit, e.g. for major developments (for example for wind energy developments) but it is the responsibility of applicants in the first instance to request such longer durations in appropriate circumstances'.

8.9.3. This is not an issue raised by the Council in the Planning Reports or by either of the observers. I consider that a ten-year permission is acceptable in this instance.

8.10. Principle of Demolition

8.10.1. The vacant house and outbuilding to be demolished are not of any particular architectural or heritage value and I have no objection to their demolition. Notwithstanding, I consider that the reuse of stone from the outbuilding to be demolished, as recommended in section 14.7.2.2 of the EIAR and by the local authority's Architectural Conservation Officer, is appropriate.

9.0 Environmental Impact Assessment (EIA)

9.1. This section of my inspector's report comprises an EIA of the proposed development. This section of the report should be read, where appropriate, in conjunction with the relevant sections of both the planning assessment and the AA (section 10, below).

- 9.2. The original planning application received by the local authority was accompanied by an EIAR in three volumes. A revised EIAR in three volumes comprising volume I (Non-Technical Summary), volume II (the EIAR itself), and volume III (Appendices to EIAR; in two parts), all prepared by Hughes and dated November 2023, was submitted as part of the further information response. For clarity, my EIA is based on the November 2023 documentation submitted as part of the further information response.
- 9.3. The proposal falls within Schedule 5 Part 2 Paragraph 10 (Infrastructure projects) (b) (i) and (iv) of the Planning & Development Regulations, 2001 (as amended) i.e. (i) 'Construction of more than 500 dwelling units' and (iv) 'Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere'.
- 9.4. 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 (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 e.g. section 4.9.
- 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 (a) and biodiversity (b) have their own individual chapters; chapters 4 and 5 respectively. The factors outlined in (c) are addressed individually/in combination in chapters 6, 7, 9, and 10, and the

factors outlined in (d) are addressed in chapters 12-15. The interactions between the environmental factors are considered in chapter 16.

- 9.7. Cumulative impacts are relevant to this application, given the extant planning permissions in proximity to the site, and these are referenced in the EIAR.
- 9.8. Chapters 1 to 3 and chapters 16 to 17 of the EIAR are summarised in paragraphs 9.9-9.13 of this inspector's report. The subsequent paragraphs summarise the content of each EIAR environmental factor chapter. The 'Assessment & Conclusion' section at the end of each chapter summary is my assessment and conclusion of that particular environmental factor. These should be read, where relevant, in conjunction with the planning assessment and AA.
- 9.9. Chapter 1 (Introduction) provides, inter alia, the purpose of the report, the legislative background to EIA, and the contributors to the EIAR.
- 9.10. Chapter 2 (Project Description and Alternatives Examined) describes the site location and context, the nature and extent of the proposed development, the five character areas and three nodal clusters, the different structure types, parking, open space, roads, phasing proposals etc. In terms of alternatives, no alternative location or uses were considered given the zoning of the site and the project's objectives in terms of housing. Alternative site layouts progressed through the design process, and these are illustrated and described.
- 9.11. Chapter 3 (Planning and Development Context) summarises the relevant national, regional, and Council level planning framework. The chapter also provides an overview of the planning history of the site and surrounding area.
- 9.12. Chapter 16 (Interactions Between Environmental Factors) identifies and draws attention to interactions and interdependencies between the various EIAR chapters. Interactions are described in writing in a tabulated format. The majority of impacts are considered to have a neutral impact and a not significant impact (25 no. out 30 no. interactions cited). There are three neutral and slight impacts (all involving population and human health), one neutral and imperceptible (land and soils and hydrology and hydrogeology), and one positive and non-significant (biodiversity and overall ecology).

9.13. Chapter 18 (Mitigation and Monitoring Measures) summarises the measures outlined within the individual EIAR chapters, and it stated that 'All measures ... form part of the proposed development and will be implemented in full'.

Chapter 4 – Population and Health

9.14. Human health is a very broad factor that is highly project dependant. The chapter assesses the impact of the proposed development on the human environment in the general site area. Impacts on population and human health from, for example, traffic, noise, and air quality, are dealt with in specific chapters.

9.15. The chapter outlines the receiving environment/baseline scenario for population, employment and economic activity, land use and settlement patterns, housing, community infrastructure and social facilities, health and safety, and risk of major accidents and disasters and considers the potential impact of the proposed development in a 'do nothing' scenario and both the construction and operational phases.

- Population – There was a 16.2% increase in the Balbriggan Rural electoral division population between 2016 and 2022 (16,495 to 19,167). There was significant population growth in the town itself between 2006 and 2022 with a 75.4% increase, compared to 20.8% in the state.

Doing nothing would be an underutilisation of the site in an area identified for residential use. Housing need and demand would be unmet with childcare and open spaces not being provided. There would be a negative impact. There are no notable construction phase impacts predicted. The operational phase is considered significant and positive, particularly regarding housing demand.

- Employment and economic activity – Employment and unemployment figures are outlined at a national level. High employment levels result in increased housing demand.

In the 'do nothing' scenario the economic investment from a large-scale construction project would be lost. Approximately 80 no. jobs would be provided during the construction period with ancillary, temporary, impacts on support services e.g. local retail, professional and technical services etc. Construction

phase nuisance is unlikely to be significant. The increase in population when completed will enhance local spending power and support local businesses and services.

- Land use and settlement patterns – The site is largely greenfield, is earmarked for development, and is on the periphery of residential development to the west of the town.

The construction phase works would temporarily degrade the local visual environment. Additional traffic movements are considered to be within reason and will be managed. The operational phase will be in keeping with planning policy and the proposed open space will contribute to the community.

- Housing – National housing policy is outlined, and the population of Balbriggan will continue to increase in line with Development Plan policy. At operational stage the residential units will contribute to the Council's housing target.
- Community infrastructure and social facilities – The applicant considers the area offers a wide range of recreational, sporting, and community infrastructure which are outlined in section 4.7.1. In the operational phase the increase in population will positively impact on and contribute to this infrastructure. It would also likely create demand for new services and facilities. The proposed commercial and childcare units and the open space areas will significantly positively impact existing and future residents.
- Health and safety – There would be short-term impacts during the construction phase e.g. noise, dust, and traffic. Asbestos is present in the structures that it is proposed to demolish. This would be appropriately dealt with. The development will comply with all health and safety regulations during the construction phase. Dust, noise, waste management, and contamination of water and groundwater during the construction phase are referenced. The operational stage is unlikely to have any significant negative health and safety impacts. Multiple open spaces and walking and cycling infrastructure is proposed.
- Risk of major accidents and disasters – There is no Seveso site in proximity. Asbestos will be appropriately managed. There is minimal risk of flooding.

Construction will be carried out in accordance with Construction and Environmental Management (CEMP) and Traffic Management Plans. No significant impacts on human health during the operational phase were identified.

- 9.16. There will be a positive cumulative impact in terms of population growth in Balbriggan, with increased economic activity. The proposed and nearby developments would provide high quality new neighbourhoods, with long-term and positive impacts on health.
- 9.17. Construction phase mitigation is referenced in section 4.11. Health and safety procedures are set out in the CEMP. Building regulations apply. Mitigation measures are contained throughout the EIAR. Asbestos will be appropriately treated. A Construction Traffic Management Plan will be agreed with the local authority. Working hours will be agreed with the local authority. Construction phase impact is not expected to be significant. Operation phase measures set out in the EIAR will be carried out in full to minimise impacts on future and current residents.
- 9.18. Significant positive economic and social benefits will be realised from the delivery of the housing.
- 9.19. 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 EIAR chapters such as air quality. This assessment and conclusion 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.
- 9.20. There are a number of typographical errors in the chapter. For example, page 146 refers to the site containing industrial and commercial units, Walkinstown, and regeneration zoning, page 149 refers to care being taken in relation to construction proximate to the existing petrol station being retained, and page 152 refers to the proposed development helping the area contribute to the projected growth for South Dublin. Notwithstanding, I do not consider that these have a material impact on the assessment of the chapter.

9.21. 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 and there are significant positive outcomes in certain respects, such as part-provision of the C-Ring road, class 1 open space, and the provision of housing.

Chapter 5 – Biodiversity

9.22. The applicant notes that a separate AA Screening & NIS has also been prepared. Desk-based research was carried out as well as field surveys on dates between 20th June 2019 and 25th October 2023. The proposed site is primarily a greenfield site consisting of arable land. There is an indirect hydrologically pathway from the site to the marine environment/conservation sites via an adjacent public surface water network and the Bremore stream. Foul wastewater will be discharged to a treatment plant, which is within capacity.

9.23. There are two European sites and two proposed natural heritage areas (pNHAs) within 5km of the site. These, and other designated sites, are tabulated in tables 5.2a and 5.2b and illustrated on figures 5.2 – 5.5. There is no watercourse on site but there are in close proximity.

9.24. It is stated that no species or habitats of conservation importance were noted on site, though it is also stated that meadow pipit and yellowhammer, red-list species of high conservation concern in the Birdwatch Ireland 2020-2026 list, were present. In terms of habitat, arable crops (rape) are dominant and there is a small area of recolonising bare ground in the south east area of the site. There are other small areas of dry meadows and grassy verges, hedgerows, and buildings and artificial surfaces. No bats were recorded roosting in the existing buildings that it is proposed to demolish, though approximately 16 no. barn swallows were nesting in the barn. Six amber-listed bird species in the Birdwatch Ireland Birds of Conservation Concern in Ireland 2020-2026 list were also noted on site.

9.25. No rare or threatened plant species, or species of conservation value, were recorded. There was no invasive plant species. While bat foraging was noted to be particularly active in the vicinity of ash treelines to the north of the site, no roosts were found on

site. No activity by amphibians, reptiles, badgers, or any mammals of conservation importance was noted.

- 9.26. The construction stage would impact the ecology of the site and surrounding area. Locally important habitats need to be protected as do bats and bird species. Reprofilling of the site can lead to silt/contaminated runoff to proximate surface water drainage networks with downstream impacts, including North West Irish Sea SPA. Some mammals may be affected and displaced by habitat loss or fragmentation and other impacts on biodiversity could include lighting. Aquatic biodiversity could be affected by silt and pollution entering the public surface water drainage network on adjacent roads during construction. The site would be seen as a stable ecological environment during the operational phase and the biodiversity value of the site will improve as landscaping matures.
- 9.27. In terms of cumulative impacts during construction and operation, there would be no in-combination effects on designated conservation sites. In-combination effects on biodiversity would be unlikely, neutral, non-significant, and localised.
- 9.28. Construction stage mitigation includes the appointment of a project ecologist to oversee all works, protection of drains, provision of silt traps, stockpile management, bunding, control of lighting, pre-demolition inspection, and timing of hedgerow removal. Operational stage mitigation includes petrochemical interception, lighting, and artificial swallow nests. Implementation of mitigation will result in an adverse negative, not significant, impact on the ecology of the area.
- 9.29. Appendix 5.1 contains a Bat Fauna Assessment and appendix 5.2 contains an Ornithological Survey.
- 9.30. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. Concern about biodiversity is broadly referenced in some of the third-party observations, but this issue is not one of the primary concerns expressed. Notwithstanding, it is an important issue to be considered in all applications of this nature. AA-related issues are separately considered in section 10 of this inspector's report.
- 9.31. The proposed development site is largely a greenfield site on the periphery of Balbriggan with existing residential development adjacent to the east. I accept that the site is of limited value in terms of biodiversity, as set out by the applicant.

- 9.32. There are some relatively minor inconsistencies in the EIAR chapter. For example, it is stated on page 159 that there are proposed in-stream works but there are no watercourses or drainage ditches on site as stated on page 179. It is stated on page 170 that no species of conservation importance were noted on site but page 179 states that several bird species of conservation importance have been noted. In addition, figure 5.10 identifies 'ED2' habitat on site (spoil and bare ground) but this is not described or expanded upon, unlike the other five habitats identified. Notwithstanding, I do not consider this materially affects the assessment of the chapter.
- 9.33. The main development area of the subject site is zoned for residential development. I do not consider that the proposed development would have a significant impact on biodiversity, either by itself or in-combination with other projects. I am satisfied that the potential for biodiversity impacts can be avoided and/or managed and I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on biodiversity.

Chapter 6 – Land and Soils

- 9.34. The site is slightly dome shaped, heights ranging from 30mAOD to 70mAOD, and it is in agricultural use. There is no open surface water on site but some in the wider area are identified.
- 9.35. The subsoil is characterised as till derived chiefly from Lower Paleozoic rocks. There is an area of potential natural ground movement north east of the site, however this does not affect the site. The bedrock geology is the Belcamp Formation. The likelihood of the land being contaminated is low as it has been in agricultural use. The site is a passive geological/hydrogeological environment in which low permeability subsoil overlies a locally important aquifer.
- 9.36. Relevant construction stage operations include earthworks and storage of stockpiles.
- 9.37. In terms of the potential impact of the proposed development, a preliminary risk assessment was carried out based on the source-pathway-receptor model. Groundwater, surface water, and soils are not impacted with contaminants from, for example, existing roads or off-site quarries. Construction phase activities that may cause a potential impact are set out: excavation of inert soils and topsoil, excavation of made ground, contamination of soils, increased groundwater vulnerability, and land-

take. The operational phase is predicted to have a neutral effect on land and soil though there is potential for, for example, failure of sewer pipes.

- 9.38. Section 6.7 outlines remedial and reductive measures such as preparation of a CEMP. Operational mitigation includes, inter alia, fuel interceptors in the drainage system. Apart from the loss of agricultural land, the residual impact is negligible.
- 9.39. Appendix 6.2 contains a Site Investigation Report.
- 9.40. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions on file, and all supplementary information. The proposed development comprises a standard residential and roads construction project on an appropriately zoned, primarily greenfield site.
- 9.41. It appears that the site visit for this chapter was carried out in March 2019 (EIAR page 193). It appears that this was prior to the construction of the existing access road between Hamlet Lane and the public open space/park/car park because this road is not referenced in the chapter. I do not consider that the presence of this road, in terms of its construction and operation (it is not fully open to vehicular traffic), would have a material impact on the broad conclusions of the chapter.
- 9.42. I do not consider that the proposed development would have a significant impact on land and soils, either by itself or in-combination with other projects. I am satisfied that the potential for land and soils impact can be avoided and/or managed and I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts on land and soils.

Chapter 7 – Hydrology and Hydrogeology

- 9.43. There is no open channel watercourse on site. The nearest, Clonard Brook, is 600 metres to the south. A closer watercourse, Clogheder, 220 metres to the east, is culverted through housing development and runs in an easterly direction. The Bremore stream is culverted and runs north-south through housing to the east before turning east. These both appear to be tributaries of Clonard Brook.
- 9.44. The groundwater body (GWB) associated with the site is the Balbriggan GWB. The aquifer is a locally important aquifer i.e. bedrock which is generally moderately productive. It is likely to be recharged on the higher ground to the west of the site. A

spring called Lady Well is immediately adjacent to the north of the site. This is described as overgrown and not in use. The site has areas of low, moderate, and high groundwater vulnerability with a discrete section of extreme vulnerability in the south west, shown on figure 7.5. Geological Survey Ireland (GSI) data describes subsoil permeability at the site as low. Groundwater flow direction is to the east.

- 9.45. The Balbriggan GWD had a 'good' status under the Water Framework Directive (WFD) 2010-2015. Laboratory analysis and site investigations indicate that groundwater beneath the site is natural and good. The site is in the Nanny-Devlin catchment in the Eastern River Basin District. A surface water sample was recovered in 2019 from Clonard Brook which had a good quality in terms of chemistry. There is no notable flood risk from coastal flooding, the risk of any pluvial flooding will be mitigated by surface water design, and there is no historical record of groundwater flooding. As per the previous chapter, the site is a passive geological/hydrogeological environment in which low permeability subsoil overlies a locally important aquifer. It could be argued that because of the extreme groundwater vulnerability in the south west corner that it could be considered a sensitive geological/hydrogeological environment, but there are no groundwater abstractions in the area for drinking water.
- 9.46. Potential construction phase impacts can be caused by, inter alia, excavation of soils, contamination of groundwater or surface water by site activities, and spillages of chemicals/hydrocarbons. Potential operational phase impacts could be caused by drainage (infiltration of contaminants), failure of the sewerage system, or flooding. Remedial and reductive measures for the construction phase is the preparation of a CEMP, to include cumulative impacts with other identified developments. For the operational phase, appropriate sustainable urban drainage systems (SuDS) will be implemented including fuel interceptors in the drainage system, and outflow from the site will be attenuated to the greenfield run-off rate. The magnitude of the residual impact is negligible. In terms of cumulative effects, a similar approach to stormwater design has been deployed in all adjacent sites i.e. limited run-off rates and use of SuDS.
- 9.47. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions received, and all supplementary information. The proposed development comprises a standard residential and roads construction project on an appropriately zoned, primarily greenfield site.

- 9.48. As with the previous chapter the site visit for this chapter was carried out in March 2019 (EIAR page 211). Notwithstanding, I do not consider that a more recent site visit would have a material impact on the broad conclusions of the chapter.
- 9.49. I have inspected the EPA website in relation to the WFD information provided in the chapter. Updated information is available. The GWB status for the Balbriggan GWD remains 'good' for the 2016-2021 period. It is not at risk of not achieving the WFD objective, as opposed to the 'review' status cited in the EIAR. In my view the only surface water networks that could be affected by the proposed development are the Clonard Brook, Bremore, and Clogheder streams. No WFD status was contained in the chapter for these. On my inspection of the EPA website it was found that collectively they had a 'poor' status for both 2013-2018 and 2016-2021 and were 'at risk' of not achieving the WFD objective. Given the distance of these watercourses from the site, the extent of urban infrastructure between the subject site and the watercourses, and the standard nature of the construction activity and required mitigation, I do not consider that the proposed development would have any adverse impact on WFD objectives.
- 9.50. Section 7.3.13 of the EIAR states that the potential categories of flood risk addressed by the assessment are coastal, fluvial, pluvial, and groundwater. However, the section omits any commentary on fluvial flooding. Notwithstanding, I note other references to fluvial flooding in the chapter e.g. page 236, and I also note the conclusion of the applicant's Flood Risk Assessment which states 'It is clear ... that the site is Zone C and is not at risk of flooding ...' I am satisfied that no flood risk issue arises.
- 9.51. I consider that the applicant's assessment of the proposed development is appropriately robust and detailed and I do not consider that the proposed development would have a significant impact on hydrology or hydrogeology, either by itself or in combination with other projects. The mitigation measures proposed are standard, well-proven, good practice measures which are capable of being successfully implemented.
- 9.52. I am satisfied that the potential for impacts on hydrology 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 hydrology and hydrogeology.

Chapter 8 – Noise and Vibration

- 9.53. There is no statutory Irish guidance relating to maximum permissible noise levels during construction, however these are typically controlled by local authorities through working hours and noise limits.
- 9.54. Baseline environmental noise surveys were carried out at six locations illustrated on figure 8.1 and these results are tabulated in tables 8.8 to 8.13, with commentary. Main noise contributors are road traffic (M1 and local), occasional aircraft, residential activity, and birdsong.
- 9.55. In terms of the potential impact of the proposed development, the greatest noise and vibration impact will occur during the construction stage. However, this is anticipated as a short-term (three years) phase. The nearest noise sensitive location is residential property to the east, as close as 10 metres away. The daytime significance threshold for construction noise at the site is considered to be 65dB $L_{Aeq,T}$ in line with category A of BS 5228-1. It is possible that this level could be breached within 30 metres of a noise sensitive receptor, so additional mitigation, above hoarding/site barriers, would be required. There is not expected to be a material increase in traffic flow during construction as per TII guidance, with an imperceptible increase in noise. Vibration limits in BS 5228-2 will not be exceeded during the construction phase.
- 9.56. In terms of operational noise, there would be no negative impact from building services plant, and no significant noise impact from either deliveries and waste collection or additional traffic.
- 9.57. In terms of cumulative impacts, there is the potential for cumulative construction phase noise effects and length of exposure to same, should projects proceed simultaneously, given the proximity of other construction projects. Receptors within 30-40 metres of two or more sites are likely to be most affected. For the operational phase, increase in traffic noise will result in a slight to moderate negative impact along the Boulevard.
- 9.58. Remedial and mitigation measures are outlined in section 8.6. For the construction phase these are measures to control the noise at source e.g. switching off machinery when not in use, minimise drop heights, operating hours, regular maintenance, and measures to control the spread of noise e.g. location and height of screening. Vibration mitigation during construction is also outlined e.g. use of resilient mounting where

practicable. In the operational phase best practice measures with regard to building services plant will be taken.

9.59. Residual impact during construction is expected to be short-term, negative, and moderate. During operation it is expected to be neutral and imperceptible.

9.60. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions and observations on file, and all supplementary information. The issue of construction noise/nuisance has been raised in submissions. This area of Balbriggan has rapidly expanded in recent years, and this is continuing. Construction is currently ongoing in the area adjacent to the south east of the main site development area for the Folkstown Park development.

9.61. Section 8.3.1 of the EIAR contains a baseline noise survey. I do not consider this to be a particularly informative survey for the following reasons:

- Although there are six survey locations illustrated on figure 8.1, only three are described on page 246.
- Locations N2 and N5, and N3 and N6, are in very close proximity and there is no survey location in the southern area of the site.
- It is stated that attended noise surveys were taken ‘between’ 2nd April 2019 and 18th May 2023. It is unclear if surveys were undertaken on those two days only or whether they were first and last survey dates with other surveys in the intervening period.
- Tables 8.8 – 8.13 contain summaries of the noise measurements. However, no date is attached to any of the tables, so it is unknown if they were recorded in 2019 or 2023 or some date in between.
- Given the extent of development to the east/south east of the main development site it is unclear as to what, if any, construction activity, was ongoing during the noise survey period (though I note that construction works were not cited as a contributing factor in the commentary on the survey results), or what adjacent developments had been developed at the time of the surveys.

9.62. Notwithstanding the previous bullet points, the noise levels recorded are typical of a greenfield, edge-of-urban site with the notable noise sources comprising road traffic, birdsong, residential use, and some aircraft noise due to its location relative to Dublin

Airport. While I do not consider the baseline noise survey to be particularly robust, I do not consider this to be a fatal issue with this application.

- 9.63. As noted, construction activity is currently ongoing adjacent to the south east. This would be likely to significantly contribute to cumulative noise impact to existing properties around the junction of the Boulevard and the C-Ring. However, many of these houses are at a relatively advanced stage of construction so, should the application be granted, given the lead-in period to the commencement of development, it is likely that construction works at this location for Folkstown Park will have largely ended. Therefore, I consider that cumulative impact, in terms of noise, would not be significant for existing properties, though the proposed development would further extend the duration of these properties being exposed to construction noise.
- 9.64. Overall, the proposed development is a standard residential and road 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 inevitable but, subject to standard construction practices being employed e.g. preparation of a Construction Management Plan and control of working hours, 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. Much of the construction activity would take place at a distance from sensitive receptors. I note the planning authority's second Planning Report states 'It is considered that the applicant has adequately demonstrated that noise impacts will not be harmful or significant' (page 50).
- 9.65. 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 9 – Air Quality

- 9.66. In order to reduce the risk to health from poor air quality, statutory bodies have set limit values for a range of air pollutants. NO₂ (nitrogen dioxide), PM₁₀, and PM_{2.5}⁵ are

⁵ Particles are defined by their diameter for air quality regulatory purposes. PM₁₀ has a diameter of 10 microns or less. PM_{2.5} has a diameter of 2.5 microns or less.

relevant to this assessment. There are no statutory levels regarding dust deposition larger than PM₁₀ during construction but there are guidelines (350mg/m²/day over a one year average).

- 9.67. After outlining the methodology employed in the chapter, the receiving environment is described in terms of meteorological data (prevailing wind speed and direction) and baseline air quality (the site is in Zone 3 for air quality i.e. towns with a population greater than 15,000. Air quality in zone C is generally good). The worst-case sensitivity of the area to human health is considered to be medium. There will be no dust impact on ecological sites.
- 9.68. The greatest potential construction phase impact is from dust which is dependent on a number of factors e.g. nature of the dust and meteorological factors. Dust can be generated from demolition (medium risk of dust nuisance impacts and low risk of human health impacts), earthworks (high risk of dust soiling impacts and a medium risk of human health impacts), construction (high risk of dust soiling impacts and a medium risk of human health impacts), and trackout (medium risk of dust soiling impacts and a medium risk of human health impacts). In the operational phase, traffic is the primary consideration. However, the impact is predicted to be long-term, localised, neutral, imperceptible, and non-significant, and the same conclusion is reached for human health impact during the operational stage. Cumulatively, should the construction phase coincide with another construction phase within 350 metres, there is potential for impact. Air quality impact during the operational stage is also predicted to be long-term, localised, neutral, imperceptible, and non-significant.
- 9.69. Remedial/reductive measures are set out in section 9.6. A number of construction phase measures are outlined under the categories of communications, site management, preparing and maintaining the site (e.g. barriers, cover stockpiles), operating vehicles/machinery and sustainable travel (e.g. no idling, speed restriction), operations (e.g. water for dust suppression, minimise drop heights), waste management, and measures specific to demolition, earthworks (e.g. stockpiles, use of water), construction (e.g. bunding and storage), and trackout (e.g. street cleaning, use of covered vehicles), as well as monitoring. No operational phase mitigation is proposed.

- 9.70. The residual impact on air quality and human health during construction and operation is predicted to be no greater than slight adverse in the short-term for construction phase air quality.
- 9.71. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions received, and all supplementary information. There is an overlap between this chapter and chapter 4 (Population and Health).
- 9.72. The proposed development is a standard construction project in an edge-of-urban area. The area to the east and south east has been subject of extensive development in recent years. Dust is a standard construction phase nuisance and is inevitable. However, I consider that the recommended mitigation measures are standard, well-proven, good practice measures which are capable of being successfully implemented.
- 9.73. 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 – Climate

- 9.74. The chapter has two distinct sections, a greenhouse gas emissions assessment (GHGA) and a climate change risk assessment (CCRA). The receiving environment is set out in section 10.3. GHG emission data at the national level for 2021 is set out; residential accounting for 11.1% of total national emissions. Predicted climate change effects are also set out.
- 9.75. The proposed development is estimated to result in 52,850 tonnes of embodied carbon dioxide equivalent (CO_{2eq}) over the lifetime of the development, equivalent to an annualised total of 0.03% of the 2030 residential buildings budget. No CCRA is required for the construction phase. For the operational phase it has been established that there are no significant climate change vulnerabilities. No notable operational phase traffic or energy use is predicted in terms of climate.
- 9.76. Best practice construction phase remedial/reductive measures are set out. Operational phase measures include drainage and building design features. The chapter notes that GHGs will be released as a result of the proposed development,

however best practice mitigation measures are proposed and the impact in relation to GHG emissions is long-term, minor adverse and not significant.

- 9.77. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions received, and all supplementary information. I consider that the proposed development, at an appropriate density on suitably zoned land, is consistent with the provisions of the Fingal Development Plan 2023-2029. 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.

Chapter 11 – Wind and Microclimate

- 9.78. Meteorological data show a predominantly south westerly prevailing wind with an average speed of 3-5 metres per second at a height of 10 metres. No microclimate impact is expected during the construction phase. During operation ‘minimal disturbance to wind-flow is expected and no significant impacts on microclimate are predicted’ (page 300).
- 9.79. Assessment and Conclusion – Having regard to the content of the chapter and the heights of the proposed buildings I am satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of wind and microclimate.

Chapter 12 – Material Assets – Transport

- 9.80. The chapter is based on the Traffic and Transport Assessment Report (which was based on 593 no. residential units⁶) and Traffic and Transport Assessment Update (collectively ‘the TTA’) which comprise appendices 12.1 and 12.2 of the EIAR.
- 9.81. The receiving environment is described in the context of, among other issues:
- Surrounding road network – Three roads are briefly described: R122/Naul road, Boulevard/Taylor Hill Boulevard, and Hamlet Lane.

⁶ This appears to be ‘Malincross SHD’, which is referred to repeatedly throughout the chapter.

- Existing traffic – Turning count surveys at six junctions were carried out on 28th November 2018 and additional traffic data was obtained from previous studies at seven junctions in Balbriggan. Additional surveys were carried out at three locations on the R122 in March 2022. TII expansion factors have been used to calculate annual average daily traffic (AADT) flows at three junctions.
- Accessibility for pedestrians and cyclists – Public transport accessibility is also addressed under this subheading.

9.82. The proposed development is described in section 12.4 under subheadings of internal pedestrian and cyclist environment, proposed road access, proposed future road improvements, parking, and DMURS compliance.

9.83. The potential impact of the proposed development is set out in section 12.5. The subheadings used in this section are as follows:

- Construction phase traffic impact – 240 no. movements are estimated per day (180 no. cars/vans and 80 no. HGVs), with more possible. This would add an additional 1.5% to the 2025 AADT of 16,300 on the R122. The surrounding road network can comfortably accommodate this modest and temporary increase.
- Cumulative development – This includes expansion of local schools (based on 2019 data) and traffic flows from committed development⁷. No allowance for Class 1 open space is included because it is assumed these recreational trips will already be taking place on the network and are included in the base data.
- Operational phase traffic impact – Traffic impact is dependent on background traffic on the network. 3,158 no. daily vehicular trips were predicted to have been generated by the 593 no. unit development referenced in paragraph 9.80, with 2,972 no. daily vehicular trips anticipated in the proposed development. In terms of the distribution of these trips, ‘the major trip destinations, such as the town centre and the M1 Motorway, are accessed via roads to the south of the site’. 80% of trips are assigned to Boulevard Road with 20% to Hamlet Road or Flemington Lane.

⁷ Two of the three permissions cited (F15A/0437 and F15A/0550) have been constructed (Taylor Hill) while the third, F21A/0055, is under construction in conjunction with other non-referenced permissions (Folkstown Park/Ladywell).

The anticipated proportional increase in traffic volumes at 13 no. junctions in the town as a result of the proposed development in 2040 at AM and PM peak is set out in table 12.13 and, as a result, eight junctions are further assessed (in paragraph 9.85). Future AADT impacts at three junctions are also outlined.

- 9.84. Mitigation and remedial measures are set out in section 12.6. An Outline Construction Traffic Management Plan has been submitted, and a final version will be prepared post-planning. For the operational phase a Mobility Management Plan Framework has been prepared.
- 9.85. The predicted residual construction phase impact of the proposed development is expected to be temporary and slight. In terms of operational phase impact, eight external junctions, illustrated on figure 12.25, have been assessed in detail. No particular concern is cited in relation to junctions 1, 2, 5, 6, 8, and 12. Junction 4 is the Boulevard / R122 junction. This junction would operate over capacity in 2025 with committed development during the AM peak, excessive delays in the PM peak, and the situation would be exacerbated by 2040. The inclusion of the proposed development sees a significant increase. Two options to upgrade the junction have been considered: a roundabout and signalised T-junction. Further to consideration of both options it is stated, in relation to the signalised T-junction, 'At the request of FCC this junction upgrade will be carried out as part of the Phase 1 works'⁸. Recommendations are set out for the improved efficiency of junction 13 (signalised junction of Chapel Street / Harry Reynolds Road).
- 9.86. A number of appendices are submitted as part of the EIAR including a Traffic and Transport Assessment Report (September 2021) as appendix 12.1, a Traffic and Transport Assessment Update Report (November 2023) as appendix 12.2, a DMURS Compliance Report (November 2023) as appendix 12.3, and an Outline CTMP (November 2023) as appendix 12.4.
- 9.87. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions and observations on file, and all supplementary information. I have addressed a number of transport-related issues in the Planning Assessment of this inspector's report e.g. the first and third reasons for refusal and permeability. I note

⁸ The applicant originally proposed upgrading this junction once 60% of the proposed development was constructed/occupied. This was not satisfactory to the local authority and the further information request included this as an issue.

initially that the site is appropriately zoned for residential and open space development. It is inevitable that traffic and transport related impacts would arise from the construction and occupation of a development of this size.

- 9.88. The figures used in the chapter are quite dated though I note that this is addressed through the November 2023 TTA Update Report which concludes that 'There will be no adverse impacts associated with the proposed housing development and, as such, there is no traffic or transportation reason why this development should not be permitted'. This was acceptable to the local authority's Transportation Planning Section, and I consider the Update Report provides a basis for an assessment of the likely traffic implications of the proposed development.
- 9.89. The substandard nature of Flemington Lane has been referenced in submissions. The road is typical of a road which served a more rural area but, as the town has expanded, it has become much more urbanised. There are no footpaths or cycle paths along Flemington Lane at the proposed vehicular entrance location. It is anticipated by the applicant that 80% of generated trips from the proposed development would exit the site via Boulevard Road because the town centre and M1, the major trip destinations, would be more accessible this way. Therefore there would be a relatively limited number of additional cars using Flemington Lane. Given the zoning of the site and the likelihood of a minority of generated traffic movements using Flemington Lane I do not consider that the deficiencies of the roadway are such that permission should be refused on this basis. In the event of the construction of the C-Ring through the site and to the north east, Flemington Lane will likely become less heavily trafficked. I note, in addition, that the local authority did not express a concern in relation to the use of this road.
- 9.90. The applicant has submitted a DMURS Compliance Report as appendix 12.3. This document concludes that the proposed development complies with DMURS. I consider the proposed layout results in a sense of enclosure along the roads, provides an active urban edge along much of the road frontage, and pedestrian and cyclist movement throughout the site is facilitated. A number of homezone and shared surface areas are provided. The proposed link road width is 6.5 metres which is consistent with figure 4.55 (Carriageway Widths) of DMURS for the maximum standard width of arterial and link streets. Local streets have widths of 5.5 metres which is also consistent with the maximum standard width. For shared surface streets,

the applicant's Design Statement (DS) illustrates a 6.3 metres wide shared surface street e.g. pages 39, 40, and 43. The DMURS Compliance Statement (page 15) states that this 6.3 metres width includes a 1.5 metres pedestrian buffer. I consider that the proposed development is generally consistent with the provisions of DMURS.

- 9.91. While there is a limited public bus service in Balbriggan, I note the provision of bus stops along the proposed C-Ring to facilitate an extension of routes.
- 9.92. The TII report received by the local authority on foot of the original planning application outlined some concern about the impact of the proposed development on the national road network. However, an updated TII report received on foot of the further information response stated that it had no observations to make. Notwithstanding, I do not consider the proposed development would have any impact on the national road network, there being none in the vicinity (the R122 is a regional road). I note that the NTA has not expressed any particular concern with the proposed development.
- 9.93. Having regard to the foregoing, 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. The subject site is appropriately zoned for residential development of the type proposed. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative traffic and transport impacts.

Chapter 13 – Material Assets – Utilities

- 9.94. The baseline environment is set out by describing the assets in their current state:
- Urban settlements – The zoned nature of the site, its current agricultural use, and its location in the context of the town is set out.
 - Ownership and access – The applicant owns the land with letters of consent from third parties (including the Council) where required. Proposed accesses are described e.g. link road, Boulevard.
 - Transport infrastructure – This is primarily addressed in chapter 12.
 - Foul and surface water – There is an existing 300mm diameter foul sewer and a 450mm storm sewer running east-west through the site entering at the junction

leading to the open space lands and exiting at Hamlet Lane⁹. SuDS is proposed with attenuated surface water discharge from the development. Uisce Éireann provided a confirmation of feasibility letter.

- Water supply – There are two watermains, 400mm and 450mm in diameter, running through the site. An Uisce Éireann confirmation of feasibility letter outlines what is required in terms of upgrading and standards.
- Natural gas supply – Gas Networks Ireland has stated there is ample gas capacity to supply the proposed development.
- Electrical supply – There are a number of assets on and adjacent to the site. It is intended that the development will be served by sub-stations within the development.
- ICT – The proposed development will be served by ducting/cables and chambers for utilities to cater for the different utility providers. Existing Eir and Virgin utilities are illustrated.
- Waste – Waste management is covered in greater detail in separate documents.
- Agriculture – The development lands are in agricultural use but are zoned for residential development.
- Demolition of existing structures – A bungalow and outhouse/shed are to be demolished.

9.95. The potential impacts of the proposed development, during both the construction and operation phases, on the twelve assets listed above, are set out in section 13.5. This includes disturbance on the existing settlement and transport infrastructure during the construction phase, the positive increase in the number of residential units, commercial spaces, and recreational space during the operation phase, a reduction in the foul capacity once the proposed development is occupied, an increase in demand for gas, electricity, ICT, and municipal waste once operational, the production of waste during the construction phase, and loss of agricultural land.

⁹ Figure 13.3 shows these sewers running along the link road between Hamlet Lane and the car park for the Class 1 open space which already exists on site, but which is not mentioned in the EIAR. This link road through the site appears to be of recent construction.

- 9.96. Mitigation and remedial measures are set out in section 13.6. Construction phase measures include preparation of a Construction and Operational Waste Management Plan, a CEMP, a Construction Traffic Management Plan, and provision of utilities in accordance with the recommendations of the relevant providers. For the operational stage, maintenance of the surface water drainage system is cited. Residual impacts are negligible.
- 9.97. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions received, and all supplementary information. I am satisfied that the potential for impacts on utilities 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 utilities.

Chapter 14 – Archaeology, Architectural and Cultural Heritage

- 9.98. Fieldwork was undertaken on 21st March 2019, 1st June 2021, and 25th April 2023, in addition to consulting previous fieldwork carried out between 2005 and 2008. Archaeological testing was carried out in May 2021 in relation to a SHD that was not progressed¹⁰. 20 no. trenches were excavated.
- 9.99. The receiving environment is set out in section 14.3 under the subheadings of:
- Archaeological and historical background – Excavations and finds from the prehistoric and early medieval periods are set out.
 - Recorded archaeological sites (RMP/SMR sites – There are six SMR sites within the application site: DU001-022001 – excavation, miscellaneous, DU001-022002 – pit, DU001-023 – field system, DU001-024 – enclosure, DU001-026 – excavation, miscellaneous, and DU001-033 – enclosure. A holy well RMP DU001-004) is located directly adjacent to the northern boundary. The Zones of Notification (ZoN) for a further three SMR sites extend into the site boundaries (DU001-014 – Neolithic house, DU001-015 – enclosure, and DU001-027 –

¹⁰ It is assumed that this is Malincross which is referenced throughout the Material Assets – Transport chapter.

enclosure). These, and others, are described in table 24.1 and illustrated on figure 14.2.

The holy well (Lady Well) is the only archaeological site in the vicinity visible above ground. A site inspection found the well to appear as a hollow of approximately 4m by 5m diameter with a small amount of water but clogged with earth and mud. All of the other sites are subsurface remains.

- Summary of archaeological investigations – Previous geophysical surveys (2005 and 2007) and archaeological testing (2007 and 2008) are summarised and illustrated in some detail. The May 2021 testing ‘confirmed the presence of substantial archaeological features’. As a result ‘the site layout was redesigned so that the main concentration of newly revealed archaeological features would be incorporated into a green space and preserved in situ’.
- Analysis of aerial imagery – A number of images from 2008 to 2021 are analysed.
- Cultural heritage – There is no known devotion associated with Lady Well. The townland boundary between Flemingtown and Clonard or Folkstown Great runs east-west through the site. This comprises a wide hedgerow dominated by gorse.
- Placenames – Placenames in the area are analysed.
- Historic maps – The subject site is described in the context of mapping from c.1656, 1760, 1837, 1908, and 1911.
- Field inspection – This was undertaken on 25th April 2023 and describes the condition of the lands in the context of nine fields. Photographs are included. The recently constructed park, which was previously used as a construction compound, and road, are briefly referenced.
- Summary of cultural heritage receptors – A summary of the cultural heritage receptors is outlined in table 14.3.

9.100. The potential impact of the proposed development is set out in section 14.5. Construction phase activities likely to cause an effect include excavation and groundworks. The most significant pre-mitigation construction phase impact to cultural heritage receptors is a moderate impact on three of the SMR sites and the farm shed (BH2) which it is proposed to demolish to accommodate the link road. There would be no impact from the operational stage on the majority of subsurface archaeological

features. The area adjacent to the holy well will be a public open space. The main concentration of the field system (DU001-023) and enclosure (DU001-015) will be preserved within open space and signage describing them provided. The double-ditched enclosure (DU001-033) will also be preserved and signed. These are slight positive effects.

9.101. Mitigation measures are set out in section 14.7. Construction phase measures are set out under subheadings of general (e.g. protection from construction activities), preservation in-situ (e.g. DU001-023 and DU001-015 and the pitch in the class 1 open space repositioned to preserve DU001-033), preservation by record (of subsurface archaeology which cannot be avoided by the proposed development), further investigation (of two areas to determine a suitable mitigation strategy), and archaeological monitoring (of all topsoil stripping). For the operational phase, the features to be preserved will be protected by a geotextile layer and buried within a green area. Stone from BH2 should be re-used on site.

9.102. Appendices submitted with the application include an Archaeological Testing Report, Licence No. 21E0298 as appendix 14.4 and Cultural Heritage Mitigation Maps (appendix 14.5).

9.103. Assessment and Conclusion – I have considered this chapter of the EIAR, the submissions and observations on file, and all supplementary information. It is clear that there is a significant archaeological history on site given the extent of excavations and fieldwork that has taken place. I note that there are no protected structures or structures contained in the national inventory of architectural heritage (NIAH) that would be affected by the proposed development.

9.104. The local authority's Architectural Conservation Officer's report references the encroachment of the subject development/urban area of Balbriggan towards Balscadden, which has an Architectural Conservation Area and which is slightly less than 1 kilometre north west of the main development site. In my opinion, there would be negligible impact on the setting of Balscadden from the proposed development given the extent of built fabric and natural vegetation in the intervening area. The subject site is appropriately zoned for the proposed development. Comments are made relating to the treatment of Lady Well and BH1 (this is outside the site boundary

and will not be impacted according to EIAR page 423). Re-use of the stone from BH2, as per the EIAR, is recommended.

9.105. An archaeological report was prepared by the local authority heritage officer/archaeologist on foot of the applicant's further information response. The further information response included an addendum relating to one of the further information requests relating to open space and the subsurface archaeology. The report does not set out any objection to the proposed development, but does recommend that townland boundaries should be retained if possible. Fencing should also be in place prior to any construction activity.

9.106. A report was prepared by the Department of Housing, Local Government and Heritage under the heading of archaeology. The Department recommends 'that a planning condition pertaining to Preservation in situ of specified sites, Archaeological Excavation of the specified subsurface archaeological features in advance of construction works and Archaeological Monitoring of ground disturbance works at construction stages within the development site be included in any grant of planning permission that may issue' [sic]. The recommended condition is reproduced as condition 13 in section 13 (Conditions) of this inspector's report.

9.107. Having regard to the foregoing, and notwithstanding the extent of archaeology on site, I am satisfied that the potential for impacts on same 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 archaeology.

Chapter 15 – Landscape and Visual Amenity

9.108. This comprises a Landscape and Visual Impact Assessment (LVIA). Landscape effects are the effects on landscape as a resource. Visual effects are the effects on views and visual amenity. 10 no. representative viewpoints (VPs) have been selected. Landscape and visual impact have aspects of it that can be considered subjective.

9.109. The study area is considered to be within 1km of the site, given the landscape/townscape setting and context. The baseline landscape character is established in section 15.3.3. The site is considered in terms of its landform, topography, and drainage, its land use and vegetation (it has an open and exposed

character), townscape history and settlement (the field layout has remained largely unaltered since the 19th century though the town has extended significantly over the 20th century), adjacent landscape character (the expansion of the town is partly related to it being a commuter settlement. To the west the landscape is characterised by open farmland), and public amenities and facilities (none).

9.110. The site is a coastal landscape character type under the Fingal Development Plan 2023-2029. The site is primarily zoned for residential development. It is not green belt or high amenity zoned. It is proposed to retain open space zoned land as open space. No protected views will be impacted by activity or use of the application site. Table 9.3 of the Development Plan defines coastal landscape character types as having a high landscape sensitivity and an exceptional landscape value. The applicant considers that section 14.18.4 (New Development in Coastal Areas) of the Plan more applies to sea views or views north and south rather than the western urban fringe of the town. Though part of the site is indicated as being within a highly sensitive landscape on a zoning map, 'the core of this rating is clearly to the north and north-west beyond Flemington Lane and the coastal fringe' (page 451). The applicant considers that the site has a medium rating for landscape character and a medium landscape value. It would have a low visual amenity sensitivity because of the limited visual envelope.

9.111. The potential impact of the proposed development is considered in section 15.5. There will be adverse construction phase impacts. Operational phase effects are set out in some detail under the following subheadings:

- Application site – The landscape character will be permanently changed by loss of agricultural land and replacement with a townscape. This would be a major effect, though not necessarily adverse.
- Flemington Lane – The urban area would shift westwards from that currently experienced and there may be a major effect on a short section of the road, though houses would be set back approx. 150 metres. Abutting residential properties will experience a slight adverse impact from the change in land use.
- Balbriggan – Across the majority of the town the impact will be negligible. Closer residential properties will experience slight effects. There will be a conscious sense that the town has extended.

- LCA coastal character type – Negligible effect over the vast majority of this landscape character type due to topography, vegetation, and the built environment.
- Residential amenity – This is a matter for planning.
- Visual effects – The 10 no. representative VPs are analysed. VP sensitivities range from medium (9 no.) to medium/high (VP 3 (Balbriggan Harbour)). The predicted change ranges from negligible (VP 3) to moderate (8 no. VPs) though the applicant does note that VP 6 (Boulevard) would be affected by the Lady Well / Folkstown Park development regardless of the proposed development. The significance summary ranges from negligible (VP 3) to moderate neutral at 8 no. VPs.

9.112. Mitigation measures are set out in section 15.7. Limited construction phase mitigation is proposed e.g. retention of vegetation and erection of screen hoardings. Operational stage mitigation includes retention of some hedgerows and trees, extensive planting, a green core connecting parks and open spaces, playgrounds, and general landscaping.

9.113. In relation to cumulative effects the applicant notes the zoning ‘and therefore it and the adjacent lands are predicted to have land-uses of this nature and type’ (page 477). In terms of residual impact, the associated parks, open space, and public realm will include significant positive elements contributing to the environment of this part of the town. ‘While recognising there are localised significant landscape and visual impacts, the proposed development, while sizeable, can be accommodated and absorbed into this part of Balbriggan without causing significant detrimental or unacceptable landscape or visual effects’ (page 477).

9.114. LVIA Visualisations and Photomontages were submitted as appendix 15B.

9.115. Assessment and Conclusion – I have considered this chapter of the EIAR, the observations on file, and all supplementary information. The proposed development would undoubtedly have an impact on the landscape and visual amenity in the vicinity of the site given the change in land use from agricultural use to a substantial residential development/extension of the town. Ground levels rise in a westerly direction so there is a view of the coastal area from the western part of the site, and from the class 1 open space in particular.

9.116. Objective GINHO60 of the Development Plan is to 'Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development'. The applicant acknowledges this objective in section 15.3.5.4. Figure 15.9 of the EIAR identifies three specific objectives to preserve views to the north of the site. While the applicant has selected 10 no. VPs it is disappointing that none of these is from the southern end of the objective approx. 500-600 metres north of the site on Clonard Road/Flemington Road. While I accept that significant impact is not likely to result from this location given the development is largely set in from the public roads, there is built fabric and natural vegetation in the intervening distance, and the proposed class 1 open space is the closest part of the proposed development to the preserve view objective, notwithstanding, I consider that a VP from this location would have been beneficial. Similarly, the absence of any VP from along Flemington Lane is disappointing. Otherwise, I consider that the VPs selected are adequate.

9.117. The site is a 'coastal' landscape character area type in the Plan. These areas have a high landscape sensitivity and an exceptional landscape value. Notwithstanding these designations, the applicant considers, on the specifics of the site, that it is more appropriately assessed as having a medium rating in terms of landscape character. Table 15.1 of the EIAR defines this as an "Everyday" or community / undesignated landscapes which may be appreciated by the local community but has no or little wider recognition of its value'. These landscapes are 'Able to accommodate change without significant effects'. Landscape character types, by their nature, are broad brushstroke designations. I agree with the applicant that the 'high' and 'exceptional' designations applied to this site, notwithstanding the rise in ground levels in a westerly direction, are not reflective of the site location on the western fringe of the town. The area of the site that is most exposed is the proposed class 1 open space, and this would have limited landscape or visual impact. Notwithstanding, I do not consider that the specific landscape designation has a material impact on the assessment of the planning application.

9.118. It is stated in section 15.3.3.5 (Public Amenities and Facilities) that there are no amenities or facilities to the west of the site. While not fully open to the public there is a sports field and park area that appears to be close to being publicly accessible.

9.119. The provision of a residential development, open space, and part of a road is consistent with the zoning objective of the site and with the existing and permitted pattern of development in the area. There is an onus to ensure that development is carried out at an appropriate density and in line with relevant guidelines. The change of land use would inevitably affect the current amenity enjoyed by residents in the vicinity. Notwithstanding, I am satisfied that the potential for significant adverse landscape or visual impact can be avoided, managed and/or mitigated by measures that form part of the proposed scheme and I am satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative landscape or visual impacts.

Reasoned Conclusion

9.120. 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 near existing residential properties. 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.
- Biodiversity – The development site is of limited biodiversity value and there would be no significant adverse impact on flora or fauna as a result of the proposed development.
- Traffic and Transport – The proposed development would not give rise to undue additional vehicular traffic impact in the area.

- Landscape and Visual – The proposed development is generally consistent in mass, scale, and height with the existing and permitted development in the wider area and is in line with the provisions of relevant Guidelines. No undue landscape or visual impact would result from the proposed development.

10.0 **Appropriate Assessment (AA)**

10.1. **Introduction**

10.1.1. An ‘Appropriate Assessment Screening & Natura Impact Statement’ (AA Screening and NIS), prepared by Altemar and dated 14th March 2024 was received by the Board as part of the grounds of appeal. Fingal Co. Co.’s second reason for refusal, set out in paragraphs 4.1.2. and 8.4.1 of this inspector’s report, cited concerns in relation to AA. It is this document that is considered in this AA section.

10.2. **Appropriate Assessment (AA) Screening**

Compliance with Article 6(3) of the Habitats Directive

10.2.1. 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

10.2.2. The applicant has not submitted a stand-alone AA Screening Report, rather it has been included in a combined AA Screening and NIS document, as referenced in paragraph 10.1.1, above.

10.2.3. The AA Screening element of the document sets out, inter alia, a description of the proposed development, identifies relevant European sites, considers whether or not the proposed development could affect these sites, considers in-combination effects, and reaches a conclusion.

10.2.4. The Screening section concludes 'An NIS is required in respect of the effects of the project on North-West Irish Sea SPA because it cannot be excluded on the basis of best objective scientific information following screening, in the absence of control or mitigation measures in relation to pollution (silt, dust, pollution and runoff) during construction and operation, that the plan or project, individually and/or in combination with other plans or projects, will have a significant effect on the named European Site/s'.

10.2.5. Having reviewed the application 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.

Screening for AA – Test of Likely Significant Effects

10.2.6. 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).

10.2.7. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site(s).

Brief Description of the Development

10.2.8. The proposed development is described in paragraph 2.1 of this inspector's report, on page 6 of the AA Screening and NIS, and in detail in chapter 2 of the EIAR.

10.2.9. The site is very briefly described on page 17 of the AA Screening and NIS as 'primarily a greenfield site consisting of arable land located within a suburban / agricultural environment ...'

European Sites

10.2.10. The development site is not located in or immediately adjacent to a European site. The nearest designated area of natural heritage is North West Irish Sea SPA approx. 1.6km to the east.

10.2.11. European sites within the zone of influence (Zol) of the proposed development must be evaluated on a case by case basis. On pages 17-35 of the AA Screening and NIS

the applicant identifies and maps European sites within a 15km Zol 'and sites beyond 15km with the potential for a hydrological connection'. 12 no. European sites are identified. These are screened either 'in' or 'out' with reasons for the decision provided. Given the nature and location of the proposed development and the European sites described and considered, in my view the applicant has applied the precautionary principle in terms of setting out the Zol.

- 10.2.12. The nearest waterbody to the site is Bremore Stream. Surface water from the subject site, after attenuation, will be directed to the existing drainage network serving existing housing and this will outfall to Bremore Stream, and ultimately the marine environment. Foul wastewater will discharge to the public network and be treated at the Balbriggan / Skerries Wastewater Treatment Plant.
- 10.2.13. Of the 12 no. European sites identified, the applicant has screened out 11 no. of these sites from further consideration. The reasons given for screening out the five SACs within the Zol are, variously, the distances involved, no direct pathway between the subject site and the European site(s), the weak indirect foul or surface water hydrological pathways including appropriate public foul wastewater treatment, no direct or indirect hydrological pathway, and the likelihood of any silt or pollutants that may enter the surface water drainage/marine network during the construction phase being settled, dispersed, or diluted.
- 10.2.14. Six of the seven SPAs were screened out. The reasons for screening out these six are, variously, the distances involved, no direct pathway, no source-pathway linkage between the subject site and European site, the weak indirect foul or surface water hydrological pathways including appropriate public foul wastewater treatment, the unsuitability of on-site habitats to form an ex-situ site for SPA qualifying interest (QI) species, the results of a wintering bird assessment, it is considered there would be no noise or vibration impacts to SPA QIs, and certain SPA QIs are piscivorous
- 10.2.15. Only one, North-West Irish Sea SPA, was screened in because there is an indirect hydrological pathway between the site and the SPA from surface water drainage, and a direct hydrological pathway because works are to be carried out in proximity to the stream (figure 10 of AA Screening and NIS). It is screened in 'Out of an abundance of caution, and in the absence of mitigation measures ...' (page 24). The reasons why it is not required to carry out stage 2 AA for other reasons are similar to those set out in

the previous paragraphs i.e. appropriate public foul wastewater treatment, the unsuitability of on-site habitats to form an ex-situ site for SPA QIs, the results of a wintering bird assessment, and it is considered there would be no noise or vibration impacts to SPA QIs. Further to the wintering bird survey, which noted herring gulls (a QI) on site in relatively small numbers, 'the other species that are Qualifying Interests of this SPA are truly marine associated bird species and would not be associated with the terrestrial habitats on site' (page 24). The applicant did not consider the use of the site to be an ex-situ area of importance to SPA QI species.

- 10.2.16. Further to the above, I consider it appropriate in the AA screening section to elaborate on two issues which could be thought of to result in likely significant effects on North-West Irish Sea SPA, ex-situ habitat and SuDS.

Ex-situ sites for SPA QIs

- 10.2.17. This was the basis for the local authority's second reason for refusal i.e. that it had not been adequately demonstrated that the subject site was not an important ex-situ site for wintering birds which are QI species of SPAs.

- 10.2.18. While surveys for February, March, October, and November 2023 had been provided, the grounds of appeal supplements those with survey data from December 2023, and January, February, and March 2024. The surveys indicate that, of all the QI species associated with the North-West Irish Sea SPA and other SPAs in the wider area, the only QI species recorded on site was the herring gull. Herring gull, according to the Conservation Objectives Series document, is a 'generalist and opportunistic feeder and can forage over both terrestrial and aquatic habitats' (page 25). As well as fish, crustaceans, squid etc. its diet includes small landbirds, small mammals, terrestrial insects, earthworms, berries, and carrion.

- 10.2.19. The Altamar letter submitted with the grounds of appeal states that the maximum number of herring gulls recorded was 20 no. sitting and occasionally foraging. Appendix 1b refers to dates that herring gulls were or were not recorded. It is noted that 31 no. herring gulls were recorded in December 2023 but these birds were sheltering. While there is no doubt that herring gulls use the field, I do not consider their degree of usage is anything notable. These are coastal birds and are relatively common in urban areas. The site is approx. 1.6km from the coast and immediately adjacent to an urban area. The fact that herring gulls may use the site from time to

time does not necessarily render it an important ex-situ site. For example, there were no herring gulls noticed on site on 4th December, 18th January, 5th February, or 11th March.

- 10.2.20. I accept the applicant's assertion in the AA Screening & NIS that the site 'would be considered a habitat of low importance to wintering birds. The site is not of significance to wintering birds and is not an ex-situ site for wintering birds for proximate SPAs' (page 23).
- 10.2.21. Based on the information submitted with the further information response and the grounds of appeal, I am satisfied that the proposed development would not have any significant impact on the ability of the herring gull, or other SPA QI species, to forage, particularly given the foraging range cited for this species in the NPWS document (up to 92km has been recorded). I also note the extant planning permission, the zoned nature of the site for residential development, and the substantial areas of undeveloped land to the north, west, and south which could be utilised by SPA QI species if necessary.
- 10.2.22. The local authority submitted a response to the grounds of appeal. However, it has not engaged with the updated AA Screening & NIS or additional wintering bird surveys.

SuDS

- 10.2.23. The use of SuDS during the operational phase would not affect conservation objectives. Surface water would enter the local surface water network after direct infiltration and attenuation. Page 11 of the AA Screening & NIS states that SuDS measures 'are to be implemented into the drainage design as best practice to manage stormwater locally, to mimic natural drainage and infiltration and to prevent flooding'. I note there are a number of policies and objectives of the Fingal Development Plan 2023-2029 that encourage and support the use of SuDS e.g. policies CAP30 and IUP10 and objectives GINHO15 and IUO9. These indicate that SuDS measures are mandatory for new development other than for reasons of the protection of European sites. The judgement in CJEU Case C-721/21 effectively stated 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.
- 10.2.24. Having regard to the foregoing, I agree with the applicant that North-West Irish Sea SPA is the only European site that could be significantly affected by the proposed

development. While I note that the Conservation Objectives Series document ‘North-west Irish Sea SPA 004236’ published by the National Parks & Wildlife Service (NPWS) does not directly cite water quality as an attribute, measure, or target for any of the conservation objectives, I nonetheless note that there may be indirect water-quality implications for QIs, specifically the reliance of many of the species on forage biomass (prey). Though there is a hydrological link to other European sites it is an indirect, remote, link, and as a result of both the distance and volume of seawater likely to have diluted any polluted discharge from the site I do not consider that it would be likely to have any significant impact on these other European sites.

10.2.25. **Table 3: Summary Table of European Sites Within the Zone of Influence of the Proposed Development to be Brought Forward to Stage 2 AA**

European Site	List of QIs	Distance from Proposed Development	Connection (source – pathway – receptor link)
North-West Irish Sea SPA (site code 004236)	Red-throated diver [A001] Great northern diver [A003] Fulmar [A009] Manx shearwater [A013] Cormorant [A017] Shag [A018] Common scoter [A065] Little gull [A177] Black-headed gull [A179] Common gull [A182] Lesser black-backed gull [A183] Herring gull [A184]	Approx 1.6km to the east as the crow flies and approx. 2.3km hydrologically (between the outfall to Bremore Stream and the marine environment)	Hydrological

	Great black-backed gull [A187]		
	Kittiwake [A188]		
	Roseate tern [A192]		
	Common tern [A193]		
	Arctic tern [A194]		
	Little tern [A195]		
	Guillemot [A199]		
	Razorbill [A200]		
	Puffin [A204]		

Mitigation Measures

10.2.26. 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

Significant effects cannot be excluded, and Appropriate Assessment required

10.2.27. 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 AA of the project, I conclude that the project individually (or in combination with other plans or projects) could have a significant effect on European site North-West Irish Sea SPA (site code 004236) in view of the site's conservation objectives, and AA (and submission of a NIS) is therefore required.

10.3. Appropriate Assessment (AA)

10.3.1. The requirements of article 6(3) as related to AA of a project under Part XAB, section 177V of the Planning & Development Act, 2000 (as amended) are considered fully in this section.

The Natura Impact Statement (NIS)

- 10.3.2. An 'Appropriate Assessment Screening & Natura Impact Statement' (AA Screening & NIS), prepared by Altamar and dated 14th March 2024, has been submitted as part of the grounds of appeal. This NIS 'includes proposed mitigation and examines whether the project, either alone, or in combination with other plans and projects, in the view of best scientific knowledge available and in view of the relevant European site's conservation objectives, will adversely affect the integrity of the nearby SPA's ...' (page 2). In terms of the studies and surveys undertaken I note, inter alia, the wintering bird study included in the AA Screening & NIS submitted with the grounds of appeal and I also note that an EIAR has been submitted with the application.
- 10.3.3. The AA Screening & NIS includes, inter alia, a legislative background to AA, a screening assessment (as summarised in paragraphs 10.2.3 and 10.2.4 of this inspector's report), a description of North-West Irish Sea SPA including the conservation objectives, an analysis of the potential impacts on the European site, mitigation measures, and a conclusion.
- 10.3.4. The NIS section concludes 'No significant effects are likely on Natura 2000 sites, their features of interest or conservation objectives. The proposed project will not will [sic] adversely affect the integrity of European sites'.
- 10.3.5. Having reviewed the documents and submissions etc., I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the relevant European site alone, or in combination with other plans and projects.

Submissions and Observations

- 10.3.6. I note initially that neither of the observations received by the Board on the grounds of appeal, and neither of the observations received by the Board on foot of the re-advertising of the application because of the submission of the AA Screening & NIS, expressed any concern about AA-related issues. AA-related concerns were not cited in the third-party observations received by the local authority during its processing of the planning application. In addition, although the Department of Housing, Local Government and Heritage did make a submission on the original planning application, this focused on archaeology and made no reference to the potential for impact on European sites.

10.3.7. Notwithstanding, AA was the basis for the local authority's second reason for refusal and I consider it prudent at this stage to summarise the background to the inclusion of this refusal reason.

Original planning application to Fingal Co. Co.

10.3.8. An 'Appropriate Assessment Screening' (AA Screening), prepared by Altemar and dated 5th July 2023, was submitted to Fingal Co. Co. with the planning application. This concluded that 'the proposed development would not give rise to any significant effects to designated sites'.

10.3.9. The local authority received a report from an independent consultancy to inform its consideration of AA issues. This resulted in AA forming the basis for item 1 of a wider further information request. The AA Screening document was not considered to be robust enough in relation to e.g. SuDS/best practice, surface water runoff in the construction phase, and the unsuitability of the site as an ex-situ habitat.

Further information response to Fingal Co. Co. and local authority decision

10.3.10. An 'Appropriate Assessment Screening & Natura Impact Statement', prepared by Altemar and dated 16th November 2023, was submitted to Fingal Co. Co. as part of the further information response. North-West Irish Sea SPA had been designated in the period between the original planning application submission and the submission of the further information response. This provided a direct hydrological pathway and therefore stage 2 AA. Additional wintering bird surveys in October and November 2023 were carried out to supplement the surveys carried out in February and March 2023 to inform the original planning application. The NIS section concluded 'No significant effects are likely on Natura 2000 sites, their features of interest or conservation objectives. The proposed project will not adversely affect the integrity of European sites'.

10.3.11. The local authority considered the applicant's response in its second Planning Report. Of concern was the absence of wintering bird surveys in the key months of December and January, and the omission of specific reference to QI species and how they may utilise or be dependent on the site habitat. Herring gull was singled out for comment, it being recorded during both sets of surveys and being a QI of both North-West Irish Sea SPA and the next nearest SPA, River Nanny Estuary and Shore (approx. 3.8km

to the north)¹¹. The local authority was satisfied that no significant effects were likely to occur to QIs as a result of hydrological links. Notwithstanding, it is 'not however satisfied that sufficient scientific evidence has been provided to demonstrate that the development site is not an ex-situ feeding area of significance by any Qualifying Interests'. No assessment was carried out to determine if there was suitable alternative habitat in the surrounding areas to accommodate displaced birds and this is considered to be a lacuna in the NIS. As the local authority could not conclude that the proposed development would not adversely affect the integrity of a European site it was precluded from granting permission.

10.3.12. This formed the basis for the second reason for refusal.

Grounds of appeal

10.3.13. In the grounds of appeal, which, in relation to the second reason for refusal, includes the First Party Appeal document and appendix E (Revised NIS and Response Letter as prepared by Altemar Ltd.), it is stated that a full set of wintering bird surveys do not alter the lack of importance of the site to SPA QIs. Additional surveys were carried out on two dates in December 2023 and on two dates in January, February, and March 2024. No significant numbers of wintering birds from European sites were noted on site. The Altemar response letter describes why the site is not an important ex-situ site.

Appropriate Assessment of Implications for the Proposed Development

10.3.14. The following is a summary of the objective scientific assessment of the implications of the project on the QI features of the European site using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

European Sites

10.3.15. North-West Irish Sea SPA is the only European site subject to AA. Its conservation objectives are set out in the 'North-west Irish Sea SPA 004236' Conservation Objectives Series document published by NPWS. The conservation objectives are to

¹¹ Herring gull is also a QI of Skerries Islands SPA approx. 7.6km to the south east.

maintain the favourable conservation condition of 15 no. QIs and to restore the favourable conservation condition of six QIs.

Aspects of the Proposed Development that could affect Conservation Objectives

- 10.3.16. Having regard to the foregoing, I consider that the only issue to be addressed is the potential for polluted waters to discharge to the SPA during the construction phase. There is the potential for downstream effects if significant quantities of pollution or silt were introduced to the surface water network during construction works. A degradation of water quality could affect the quality and/or amount of prey availability/forage biomass for the QI bird species, even though I note that water quality is not specifically cited in the relevant attributes, measures, or targets for the site.
- 10.3.17. Table 4, below, is based on the AA Screening & NIS and NPWS data etc. Given the similarity in the five attributes, measures, and targets between the 21 no. relevant bird species I have grouped them collectively. The relevant conservation objectives for the European site have been examined and assessed with regard to the identified potential significant effect and all aspects of the project both alone and in-combination with other plans and projects. Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed and clear, precise, and definitive conclusions reached in terms of adverse effects on the integrity of the European site.

Table 4 – Summary of AA of implications of the proposed development on the integrity of North-West Irish Sea SPA (site code 004236) alone and in-combination with other plans and projects in view of the site’s conservation objectives

Summary of key issues that could give rise to adverse effects:

- **The potential for polluted waters to discharge to the SPA during the construction phase**

Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004236.pdf

Summary of Appropriate Assessment

Qualifying interest (QI) feature	Conservation objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Red-throated diver [A001] Great northern diver [A003] Fulmar [A009] Manx shearwater [A013] Cormorant [A017] Shag [A018] Common scoter [A065]	To maintain or restore the favourable conservation condition of the relevant bird species (15 no. maintain and six no. restore)	There are a number of potential adverse effects. However, all arise from the construction phase / construction activity e.g. dust and silt ingress, and relate to downstream impacts via the surface water network	Mitigation measures can be outlined under a number of subheadings. A brief summary of measures include: <i>Soils and geology</i> <ul style="list-style-type: none"> • Limited topsoil stripping and appropriate stockpile management • Soil management plan <i>Hydrology and hydrogeology</i> <ul style="list-style-type: none"> • Capture and treatment of sediment-laden surface water runoff prior to discharge e.g. settlement ponds, inlet protection, silt traps • Storage and bunding of fuels, chemicals etc. 	The applicant’s AA Screening & NIS considers that no projects in the vicinity of the proposed development would be seen to have a significant in-combination effect on European sites. I agree with this consideration of	Yes. The applicant’s AA Screening & NIS concludes that ‘No significant effects are likely on Natura 2000 sites, their features of interest or conservation objectives. The proposed project will not will [sic] adversely affect the integrity of European sites’.

<p>Little gull [A177]</p> <p>Black-headed gull [A179]</p> <p>Common gull [A182]</p> <p>Lesser black-backed gull [A183]</p> <p>Herring gull [A184]</p> <p>Great black-backed gull [A187]</p> <p>Kittiwake [A188]</p> <p>Roseate tern [A192]</p> <p>Common tern [A193]</p> <p>Arctic tern [A194]</p> <p>Little tern [A195]</p> <p>Guillemot [A199]</p> <p>Razorbill [A200]</p> <p>Puffin [A204]</p>			<ul style="list-style-type: none"> • Refuelling to be carried out away from surface water inlets • Concrete batching to take place off-site, monitoring of pumped concrete • Any groundwater that requires pumping will be adequately filtrated prior to discharge <p><i>Water supply, drainage, and utilities</i></p> <ul style="list-style-type: none"> • Foul water will be tankered off-site until a connection to the public network has been established <p><i>Air, dust, and climate factors</i></p> <ul style="list-style-type: none"> • Use of bowsers • Sweeping roads • Stockpile management, • Wheel wash with discharge directed to settlement ponds • Site fencing • Covered trucks 	<p>in-combination effects.</p>	<p>Notwithstanding the apparent typographic error, I agree with the conclusion and consider that adverse effects on integrity can be excluded.</p>
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Overall Conclusion: Integrity Test

I am able to ascertain with confidence that the construction of the proposed development would not adversely affect the integrity of North-West Irish Sea SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

Mitigation Measures

- 10.3.18. Detailed mitigation measures are set out in table 6 (Mitigation Measures) of the AA Screening & NIS. There is some duplication in the table and measures from both the CEMP and EIAR are included. The measures in table 4 of this inspector's report are very brief summations of some of the measures proposed and are not an exhaustive list of the measures cited in table 6.
- 10.3.19. The applicant's table 6 includes some operational phase measures. Given the nature of the application i.e. a residential development, and the implementation of SuDS measures as described in paragraph 10.2.23 of this inspector's report, I do not consider any operational phase mitigation is necessary in so far as it relates to AA.
- 10.3.20. I consider that the proposed mitigation measures are standard, well-proven, good practice measures that would mitigate the potential for polluted waters to discharge to the SPA during the construction phase, and that they are measures capable of being successfully implemented.

In-Combination Effects

- 10.3.21. Although the applicant's AA Screening & NIS addresses in-combination effects it is addressed more in the AA Screening section rather than the NIS section of the document. Notwithstanding, in-combination effects are referenced in the NIS conclusion.
- 10.3.22. Table 3 of the AA Screening & NIS identifies five other planning applications. These relate to the development under construction (Folkstown Park) or minor-scale developments. Folkstown Park is likely to be much more advanced in its construction by the time development commences on the subject site should permission be granted and acted upon.
- 10.3.23. I agree with the overall AA Screening & NIS finding that no adverse in-combination impacts are foreseen with any other plan or project. As I do not consider the proposed development on its own will have any undue adverse effects on North-West Irish Sea SPA, I do not consider that it would have any in-combination effects.

10.4. Appropriate Assessment (AA) Conclusion

- 10.4.1. The proposed development has been considered in light of the assessment requirements of sections 177U and 177V of the Planning & Development Act, 2000 (as amended).
- 10.4.2. Having carried out screening for AA of the project, it was concluded that it may have a significant effect on North-West Irish Sea SPA (site code 004236). Consequently, AA was required of the implications of the project on the qualifying features of that site in light of its conservation objectives. The possibility for significant effects was excluded for other European sites.
- 10.4.3. Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of North-West Irish Sea SPA, or any other European site, in view of the site's conservation objectives.
- 10.4.4. This conclusion is based on:
- a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures.
 - an assessment of in-combination effects.
 - no reasonable scientific doubt as to the absence of adverse effects on the integrity of the SPA.

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 Urban Development and Building Heights Guidelines for Planning Authorities (December 2018),
- (d) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023),
- (e) the provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (f) the provisions of the Design Manual for Urban Roads and Streets (2019),
- (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 'RA - Residential Area' and 'OS - Open Space' zonings for the site,
- (i) the documentation submitted with the planning application, such as the Environmental Impact Assessment Report (EIAR) and the Appropriate Assessment Screening and Natura Impact Statement, plus the applicant's grounds of appeal,
- (j) the submissions and observations received on file including from the local 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 report of the Planning Inspector.

Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that North-West Irish Sea SPA (site code 004236) is the only European site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Appropriate Assessment Screening & Natura Impact Statement and associated documentation submitted with the planning application and grounds of appeal, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European site, namely North-West Irish Sea SPA, in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European site.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European site, in view of the site's conservation objectives.

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, local authority, prescribed bodies, and observers in the course of the application, and,
- (d) the Planning 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 near existing residential properties. 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 capable of being successfully implemented.
- Biodiversity – The development site is of limited biodiversity value and there would be no significant adverse impact on flora or fauna as a result of the proposed development.
- Traffic and Transport – The proposed development would not give rise to undue additional vehicular traffic impact in the area.
- Landscape and Visual – The proposed development is generally consistent in mass, scale, and height with the existing and permitted development in the wider

area and is in line with the provisions of relevant Guidelines. No undue landscape or visual impact would result from the proposed development.

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, subject to compliance with the conditions set out below, the proposed development would be consistent with the development objectives and other provisions of the Fingal Development Plan 2023-2029, would make efficient use of an appropriately zoned site on the edge of Balbriggan, would positively contribute to an increase in housing stock, commercial/retail floorspace, and both physical and recreational infrastructure in the area, would be acceptable in terms of urban design, layout 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 the residential or visual amenities of the area or unduly 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, as amended by the further plans and particulars submitted to the local authority on 20th December 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the local

authority, the developer shall agree such details in writing with the local authority prior to commencement of development or as otherwise indicated and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The period during which the proposed development hereby permitted may be constructed shall be ten years from the date of this Order.

Reason: In the interest of clarity.

3. The mitigation measures identified and contained within the Environmental Impact Assessment Report submitted to the local authority as part of the further information response, the Appropriate Assessment Screening & Natura Impact Statement submitted to An Bord Pleanála with the grounds of appeal, 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.

4. Prior to the commencement of development the applicant shall transfer the area of land under the applicant's ownership adjoining the south of the development site, as shown on Site Layout Plan Sheet No. 6 (drawing no. 1902-Site-0526-A), to the local authority.

Reason: To facilitate the continuation of the road proposal objective contained within the Fingal Development Plan 2023-2029, to comply with the provisions of the planning application, and in accordance with the proper planning and sustainable development of the area.

5. Prior to the commencement of development the developer shall submit, for the written approval of the local authority:

- (a) detailed layouts for the public open space areas associated with the proposed development.
- (b) revised floor plans, elevations, and section drawings for Unit FP_102 (Duplex L adjacent to the south east of public open space no. 4), removing overlooking potential to the south from the second floor living room and increasing passive surveillance over the open space area to the east.
- (c) revised floor plans, elevations, and section drawings for Duplex N2 adjacent to the south of public open space no. 4, removing overlooking potential to the east from the first floor kitchen/dining room.
- (d) revised floor plans, elevations, and section drawings for the J and K house types along the eastern site boundary (TL_01 to TL_10 and TL_21 to TL-24) removing overlooking potential to the east from the first floor landing.
- (e) revised floor plans, elevations, and section drawings for Unit R.03 (Duplex R adjoining the south of public open space no. 6), removing overlooking potential to the south from the first floor kitchen/living/dining room and balcony.
- (f) revised floor plans, elevations, and section drawings for house type D to provide an aggregate bedroom area of 25 square metres.
- (g) revised floor plans, elevations, and section drawings for house type H to provide an aggregate bedroom area of 43 square metres.

Reason: In the interests of existing residential amenity and the residential amenity of future occupants.

- 6. Prior to commencement of development the developer shall submit, for the written approval of the local authority:
 - (a) the detailed design and specification of the signalised junction of Boulevard Road and R122.
 - (b) the detailed design of all pedestrian crossings.
 - (c) the detailed design of all proposed junctions.
 - (d) the detail design and locations of bus stops.

(e) the detailed design of all traffic calming proposals.

Reason: In the interests of the safety of pedestrian, cyclist, and traffic safety and the proper planning and sustainable development of the area.

7. (a) The detailed design of the tertiary permeability links shall be agreed in writing with the local authority prior to commencement of development on site and delivered in line with the agreed phasing plan.

(b) Prior to demolition of the outbuilding/shed the developer shall agree, in writing with the local authority, a manner of reusing the stone within the proposed development site.

Reason: In the interests of encouraging and facilitating the use of sustainable modes of transport, residential amenity, cultural heritage, and the proper planning and sustainable development of the area.

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

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

9. (a) The development shall be constructed in accordance with the phasing diagram shown on drawing no. 1902-SITE-0519-A submitted with the grounds of appeal. For clarity, the C-Ring Road within the site boundary, the class 1 public open space, and the upgrade of the Boulevard Road/R122 shall all be constructed as part of the first phase.

(b) Phase 2 of the proposed development shall only commence once the developer has carried out the phase 1 development to the written satisfaction of the local authority.

Reason: In the interest of orderly development.

10. (a) Full details of the specific use of the commercial units shall be submitted to and agreed in writing with the local authority prior to occupation of the units.

(b) Prior to the completion of each phase of the development hereby permitted, the permitted childcare unit, commercial unit, and/or communal unit in that phase shall be fully fitted out and suitable for immediate occupation and operation.

(c) Details of all childcare, commercial, and communal unit signage shall be submitted to, and agreed in writing with, the planning authority prior to operation of any of these units

Reason: In the interests of clarity, the orderly development of the site, and the visual amenities of the area.

11. 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 local authority prior to commencement of development. Roof tiles or slate shall be dark grey/blue/black.

Reason: In the interest of visual amenity.

12. 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.

13. (a) The developer shall engage the services of a suitably qualified archaeologist to co-ordinate and implement the mitigation proposals contained in section 14.7 of the Environmental Impact Assessment Report for preservation in situ and archaeological excavation (preservation by record), under licence, of the archaeological features already identified in advance of construction works, and

archaeological monitoring of ground disturbance at construction stage across the development site.

(b) The archaeologist shall produce an appropriate schedule for all the mitigation measures to be applied. This schedule, to be integrated with all of the relevant components on the construction programme, shall be submitted with Archaeological Excavation Licence applications.

(c) Should previously unidentified archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action e.g. preservation in situ or excavation, and shall facilitate the archaeologist in recording any material found.

(d) The local authority and the Department shall be furnished with reports describing the results of the monitoring and archaeological excavations.

Reason: To ensure the continued preservation, either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

14. The internal road network serving the proposed development, including turning bays, junctions with the public road, parking areas, footpaths and kerbs, shared surfaces, raised tables, signage etc. shall be in accordance with the detailed construction standards and requirements of the local authority for such works and with the relevant provisions of the Design Manual for Urban Roads and Streets (DMURS). In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

15. 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.

16. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Outdoor Lighting Report, details of which shall be submitted to, and agreed in writing with, the local authority prior to commencement of development or as otherwise agreed in writing with the local authority. The detail shall include measures for the protection of bats. Such lighting shall be provided in each phase prior to the making available for occupation of any residential unit in that phase.

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

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

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

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

Reason: In the interest of public health.

19. 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 local authority prior to commencement of development. The landscape scheme shall be implemented fully in the first planting season following completion of each phase 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.

Reason: In the interests of residential and visual amenity.

20. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned for the residential, commercial, childcare, and communal units, and shall be reserved solely for those purposes.

(b) A minimum of 10% of communal 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.

(c) 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 local authority.

(d) Cycle parking and storage shall comply with specific planning policy requirement (SPPR) 4 of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024). All cycle parking details shall be submitted to and agreed in writing with the local authority and shall be in situ prior to occupation of each phase of the development.

Reason: To ensure that adequate car and bicycle parking facilities are available to serve the proposed development.

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

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

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

22. Prior to 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 shall be submitted to the local authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

23. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the local 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 access points to the site for any construction related activity;
- (c) location of areas for construction site offices and staff facilities;
- (d) details of site security fencing and hoardings. Hoardings shall include a one square metre area on each frontage detailing site management contact details;
- (e) details of on-site car parking facilities for site workers during the course of construction;

- (f) 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;
- (g) measures to obviate queuing of construction traffic on the adjoining road network;
- (h) measures to prevent the spillage or deposit of clay, rubble or other debris on the road network;
- (i) 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;
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;
- (l) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (n) 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;
- (o) a community liaison officer shall be appointed for the duration of the construction works.

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

24. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0900 to 1300 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 local authority.

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

25.A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the local 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.

26. (a) The areas of the development for Taking in Charge shall be agreed in writing with the local authority prior to the commencement of development on site.

(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 local 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.

27. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the local 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 & 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 local 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 & Development Act, 2000 (as amended), and of the housing strategy in the development plan of the area.

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

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

29. Prior to commencement of development, the developer shall lodge with the local authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge 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 local authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development.

30. The developer shall pay to the local authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the local 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 & Development Act, 2000 (as amended). The contribution shall be paid prior to commencement of development or in such phased payments as the local 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 local 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 & Development Act, 2000 (as amended), that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Anthony Kelly

Planning Inspector

11th June 2024