



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319570-24

<b>Development</b>	Demolition of buildings, construction of 2 apartment blocks containing 79 no. apartments together with all associated site work and services. Accompanied by Natura Impact Statement.
<b>Location</b>	No.s 1 & 2 Hawthorn Cottages, Malahide Road, Dublin 17, D17 HD39.
<b>Planning Authority</b>	Dublin City Council North.
<b>Planning Authority Reg. Ref.</b>	4137/23.
<b>Applicant(s)</b>	Gerry Geoghan/Patrick Brennan.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	Brenda Doyle.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	9 <sup>th</sup> September & 11 <sup>th</sup> December, 2024.
<b>Inspector</b>	Patricia M. Young.

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## 1.0 Site Location and Description

- 1.1. No. 1 and 2 Hawthorn Cottages, the appeal site has a given site area of 4,235m<sup>2</sup>. The site is comprised of two vacant former residential plots of land that contain a detached derelict modest cottage on the southern portion and detached vacant dwelling house on the north western portion. These buildings are surrounded by overgrown former large gardens and maintain their original site boundaries albeit these are also in an overgrown state. Each plot is served by an individual entrance onto the Malahide Road (R107). These entrances are located on the eastern boundary of the two plots and open onto the Malahide Road at a point where there is a signalised T-junction with a boulevard road called Belmayne. The site is situated circa 370m at their nearest point to the north of Malahide Road's junction with the R139, in Dublin 17, in an area that in recent decades has undergone significant regeneration and redevelopment.
- 1.2. In close proximity to the northern boundary of the is the southern banks of the Mayne River. The lands in between are unkept and have a sylvan character. On the opposite of the Mayne River banks is a blocked-up pathway that runs through dense planting. To the north of which are two detached dwelling houses that front onto the Malahide Road. Bounding the site on its southern side is a vacant site (Note: Site 5) and bounding the site to the west is an area of open space associated with Care Choice Malahide Road, nursing home.
- 1.3. This appeal site forms part of the 'Northern Cross District'. This district is an area characterised by a mixture of land uses but is predominantly residential in its primary function. It includes a range of land uses synergistic to residential developments through to is located along a number of Dublin bus routes. Buildings within this district are characterised by their strong street containment and to the south of Site 5 the buildings range in a staggered six to eight storeys in their height. With the opposite side of the Malahide Road mainly fronted by six storeys in height buildings that have a multi-unit residential function.
- 1.4. The adjoining public domain consists of public footpath that is more restricted in its width in comparison to that to its north and south. This public footpath has a curving alignment and there is a cycle path running immediately alongside it. Forming part of the adjoining northernmost roadside carriageway there is a yellow box which forms part of the aforementioned Malahide Road/Belmayne junction.

- 1.5. To the north of the site's roadside boundary is Dublin Bus Stop (ID 1217/Balgriffin/Malahide Road) which is served by Dublin Bus Routes 42, 43 and 102c. This stop is c215m by foot. There are also a number of other Dublin bus stops within 1km of the site. These serve a number of other Dublin Bus Routes as well as provide connectivity to Clongriffin Train Station which is c2km from the site as the bird would fly. Also, the site is located c3.1km from Junction 1 of the M1/M50 and is within close proximity to Dublin Airport.

## 2.0 Proposed Development

- 2.1. Permission for the proposed development will consist of:

- Demolition of the existing residential property and existing derelict residential property (Note: 154.8m<sup>2</sup>).
- Construction of a residential development consisting of two blocks with a total of 79 residential apartments (Note: 12,294m<sup>2</sup>). Block 'A' would be positioned to the east of the site and includes 24 No. 2-bed apartments and 12 No. 1-bed apartments. Block 'B' would be positioned to the west side of the site and includes 30 No. 3-bed apartments; and 13 No. 1-bed apartments. The cumulative unit mix of the two blocks is summarised as follows:

**Table 1:**

Number of Bedrooms	Dwelling Type	Percentage %
25	1-Bedroom Unit	31.6*
24	2-Bedroom Unit	30.4*
30	3-Bedroom Unit	38*
Total: 79		

\*Note: % noted is rounded figure.

- All apartments have private space in the form of balconies/terraces. Block 'A' ranges in height from 6-8 to storeys and Block 'B' ranges in height from 7-8 storey in height excluding basement.
- Proposed development includes communal amenity spaces which would be located centrally at ground level of the site as well as at roof levels of Block 'A' and in Block 'B'.

- The proposed basement level contains 56 No. car parking spaces including 4 No. disabled spaces; motorcycle parking along with electric vehicle parking and is accessed via a new vehicle entrance and ramp from Malahide Road.
- The proposed development includes new boundary treatments, communal bike stores and bin stores.
- The proposed developments a children's play area and crèche (Note: 135.8m<sup>2</sup>).
- The proposed development also includes associated groundworks, landscaping, drainage including SUDS measures, lighting engineering and ancillary works necessary to facilitate the development.

This application is accompanied by a **Natura Impact Assessment** and the following documentation:

- Planning Statement
- Design Statement
- Visual Impact Assessment & Photomontages
- Housing Quality Assessment
- Building Lifecycle Report
- Daylight, Sunlight and Overshadowing Study
- Operational Waste Management Plan
- Traffic and Transportation Assessment which includes Mobility Management Plan, Travel Plan and Road Safety Audit.
- Landscape Concept
- Landscape Plan
- Community & Social Audit
- Engineering Services Report
- Construction Management Plan
- Basement Impact Assessment
- Outdoor Lighting Plan
- Climate Action & Energy Statement
- Inward Noise Impact Assessment
- Ecological Impact Assessment
- Flood Risk Assessment

- Outline Construction Environmental Plan
- Appropriate Assessment Screening & Natura Impact Statement
- Arboricultural Report / Tree Constraints Plan / Tree Impacts Plan & Tree Protection Plan
- Archaeological Assessment

2.2. According to the accompanying planning application the proposed crèche facility would cater for 20 no. child care spaces. It also noted that the proposed plot ratio is 2.9; the site coverage is 45%; the total net floor area of residential development is 7,792.4m<sup>2</sup> and the total residential gross floor area is 12,294m<sup>2</sup>.

**Table 2:** Key Statistics of the Proposed Development as lodged.

<b>Site Area</b>	0.4235Ha (4,235m <sup>2</sup> )
<b>Proposed Development</b>	Demolition of Existing Buildings: 154.8m <sup>2</sup> Gross Floor Area of Proposed Buildings: 12,293m <sup>2</sup> (Note: 79 No. Apartment Units & 20 Childcare Facility/Creche 135.8m <sup>2</sup> ) Total Net Floor Area of Residential: 7,792.4m <sup>2</sup> Plot ratio: 2.9 Site Coverage: 45%
<b>Density</b>	188 dwellings per hectare
<b>Public Open Space</b>	314m <sup>2</sup> (Note: 7% of Site Area)
<b>Parking</b>	179 Cycle Parking Spaces 56 No. Car Parking Spaces (Note: 4 No. Accessible Spaces and 50% Electric Vehicle Charging)
<b>Dual Aspect</b>	All dwelling units.
<b>Part V</b>	20% of Dwelling Units Proposed

2.3. Following on from an extension of time the applicant submitted their **further information response** to the Planning Authority on the 28<sup>th</sup> day of February, 2024. The amendments included in this response included moving Block 'A' southwards away from the northern boundary of the site which aligns with the Mayne River by 2m. This amendment includes the basement level and together allows for the retention of more trees on site. The revisions also include the southern side of Block 'A' having a

reduced width to allow more light to penetrate into the main communal open space proposed. In addition, the southern portion of Block 'B' has been redesigned, the child care facility omitted with this resulting in a redesign also of the southern portion of Block 'A'. The overall changes in summary also include result in the number of apartment units proposed to 72 with this equating to 35 in Block 'A' (Note: a reduction of one apartment) and 37 in Block 'B' (Note: a reduction of six apartment units).

**Table 3**

Number of Bedrooms	Dwelling Type	Percentage %
19	1-Bedroom Unit	26.4*
23	2-Bedroom Unit	32*
30	3-Bedroom Unit	41.6*
Total: <u>72</u> <u>Revised reduced density</u> <u>of 170 units per hectare.</u>		

\*Note: % noted is rounded figure.

2.4. The further information revisions also include:

- A final gross floor area of 9,465m<sup>2</sup> including basement level.
- An increased number of cycle parking spaces to 194 including 6 no. cargo spaces.
- 54 no. car parking spaces including 4 no. disabled spaces.
- 3 no. motorcycle spaces.
- Provision of Unit 'A01' (Note: 90.2m<sup>2</sup>) as a 'Community Unit'.
- Open space totalling 1,816.56m<sup>2</sup> (Note: 44% of the site area/playground of 100m<sup>2</sup>).
- External finishes of the blocks have been revised with this including additional glazing at roof access lobbies, increased passive surveillance designed into the external facades addressing onto the community open space through to timber louvres to reduce the appearance of the voids associated with the car access point.
- The one-bedroom apartment in the southern arm of 'Block A' has been redesigned and rotated to address the privacy and overlooking concerns. This is together with the other amendments to this block which also seek to mitigate adverse residential amenity outcomes.



- Lift access has been provided to the roof terrace of Block 'A' and additional screening of this spaces has been provided (Note: 158.3m<sup>2</sup> amenity space). Additionally Block 'B' roof terrace would be accessible by stairs and lift (Note: 246.3m<sup>2</sup> amenity space).

- Bin Storage is clarified.

- Access by Emergency and Waste Collection Vehicles clarified.

- The landscaping and play area have been updated.

2.5. The documents included as part of the applicant's further information response included:

- Appropriate Assessment Screening

- Daylight, Sunlight and Overshadowing Study

- Arboricultural Report

- Ecological Impact Assessment

- Drainage Report

- Preliminary Construction Method Statement & Construction & Demolition Waste Management Plan

- Flood Risk Assessment

- Landscaping scheme including Tree Survey/ Tree Constraint Plan / Tree Impacts Plan / Tree Protection Plan

- Site Roof Plan

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. On the 26<sup>th</sup> day of March, 2024, the Planning Authority issued a notification **granting** permission for the proposed development subject to 22 no. mainly standard conditions.

Condition No. 3: Required lodgement of a cash deposit/bond to ensure that the proposed development as implemented as permitted.

Condition No. 5: Part V.

Condition No. 7:	Operation, management and fit out of the Community/Cultural Space to be agreed.
Condition No. 9:	Sets out the Parks, Biodiversity and Landscape Services requirements.
Condition No. 10:	Sets out the Transportation requirements.
Condition No. 11:	Sets out the Drainage requirements.
Condition No. 12:	Sets out the Environmental Health Officer requirements.
Condition No. 13:	Requires the levels of insulation to accord with Technical Guidance Document E, Building Regulations, 2014, having regard to the site's location within 'Noise Zone C' of Dublin Airport.
Condition No. 14:	Sets out the Waste Management requirements.
Condition No. 17:	Requires adequate provision to be made to facilitate access to and use of the development buildings, facilities and services.
Condition No. 18:	Restricts any further development at roof level.
Condition No. 20:	Requires compliance with the Codes of Practice from the Drainage Division, Transportation Planning Division and the Noise & Air Pollution Section of the Planning Authority.
Condition No. 21:	Sets out Archaeological Requirements.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The **final Planning Officer's report** (21.03.2024) is the basis of the Planning Authority's decision. It includes the following comments:

- The revised unit mix is deemed acceptable in the context of the Northern Cross district with there being a demand in this area for three-bedroom units.
- The revised density and unit qualitative as well as quantitative space provisions accords with relevant requirements.

- Whilst the amended floor area does not necessitate the provision of a community/cultural space the applicant proposes such a unit. Notwithstanding the floor area of this unit is modest and it may be better maintained for the sole use of future residents of the scheme.
- There is no requirement to provide a childcare facility for the scheme as revised.
- The 85m<sup>2</sup> children's play area is welcome.
- The amendments to the courtyard together with the level of overlooking onto it are welcomed.
- The revised detailing of the buildings and ancillary structures are deemed acceptable as well as would have a more positive impact on their streetscape.
- The revised scheme does not give rise to any undue overlooking impacts on properties in its setting or within the scheme.
- The revised scheme would give rise to minor additional overshadowing on properties within its vicinity and the proposed units as well as their associated spaces would meet the required provisions. However, this impact is not considered such to warrant refusal given it is not exceptional for its context.
- The proposed blocks would not be visually overbearing on their setting.
- The traffic arrangements including refuse collection are deemed to be acceptable.
- The increase in bicycle parking spaces accords with Development Plan standards.
- There are ameliorating measures to balance the habitat loss.
- No AA, NIS or EIA issues arise.
- Concludes with a recommendation to grant permission, subject to safeguards.

The **initial Planning Officer's report** concluded with a request for further information on the following matters:

- |             |                                                                                                                          |
|-------------|--------------------------------------------------------------------------------------------------------------------------|
| Item No. 1: | Required the provision of a Community Arts and Culture Space in compliance with Objective CUO25 of the Development Plan. |
| Item No. 2: | Raised concerns in relation to the street elevation of Block 'A'.                                                        |
| Item No. 3: | Raised separation distance and privacy/overlooking concerns.                                                             |

- Item No. 4: Raised concerns with the levels of sunlight to the primary communal open space area.
- Item No. 5: Raised concerns in relation to accessibility to the communal roof terraces. It also raised privacy concerns in relation to units adjacent to the communal roof terrace.
- Item No. 6: Sets out the Transportation Planning Division requirements which included providing additional cycle parking through to further details on the northern arm of the junction onto Malahide Road.
- Item No. 7: Sets out the requirements of the Parks, Biodiversity and Landscape Services Division which included improved conservation along the Mayne River corridor along the northern perimeter of the site. It also sought compliance with the public open space requirements set out under Section 15.8.6 of the Development Plan.
- Item No. 8: Sets out the Drainage Division requirements. This raises concern in relation Flood Risk Assessment based on the site being part of floodplain within Flood Zone 'A' and therefore requires additional measures within the design of the scheme. It also considered that the surface water management proposals and the basement impact assessment were not acceptable.
- Item No. 9: Raised concerns that adequate information had not been provided in relation to the projected child care demand of the scheme and the viability of the provision of such a small creche. It also raised daylight / sunlight access concerns for the scheme.

### **3.3. Other Technical Reports**

3.3.1. **Transportation Planning Division:** Final report dated the 13<sup>th</sup> day of March, 2024, raised no objection to the proposed development. This report included the following comments in relation to the further information response:

- Their refuse collection and staging concerns have been overcome.
- The bicycle space provision now accords with the Development Plan standards.

- The alterations to the adjoining Malahide Road junction, which includes a pedestrian crossing is acceptable subject to the full design details being agreed prior to the commencement of development on site.

This report concludes with the recommendation to include a bespoke worded condition which was included as part of the Planning Authority's notification to grant permission under Condition No. 10.

3.3.2. **Parks, Biodiversity & Landscape Services:** Final report dated the 12<sup>th</sup> day of March, 2024, it includes the following comments:

- The northern portion of the site that merges with the Mayne River Z9 zoning is the only one of value proposed, with the other areas not considered useable.
- 57% of the communal open space meets the BRE March 21<sup>st</sup> threshold.
- The play space requirement has been met.
- There is a hydrological connection along the Mayne River to Natura 2000 sites, however, no significant impacts are expected.
- The Ecological Impact Assessment concludes that there will be a low impact from the development. Mitigation measures can be included by way of a condition, including in relation to bats.
- Concerns raised in relation to the impact of the development on natural features.
- Concludes with a recommendation to grant permission subject to safeguards.

3.3.3. **Drainage Division:** Final report dated the 12<sup>th</sup> day of March, 2024, raises no objection to the proposed development subject to mainly standard in nature requirements including in relation to discharging to the River Mayne and measures to minimise basement flooding risks.

### 3.4. **Prescribed Bodies**

3.4.1. **Dublin Airport Authority (17.08.2023):** This submission notes that the proposed development is located within 'Noise Zone C' under the current Development Plan and therefore is required to comply with its Policy SI40. It requests that any grant of permission include an appropriate condition to ensure the protection and prevention of noise nuisance in accordance with this policy.

3.4.2. **Uisce Eireann:** None.

### 3.5. **Third Party Observations**

3.5.1. The Planning Authority received 2 No. Third-Party observations during the course of their determination of this application. The concerns raised mainly related to adverse residential amenity impact on properties in the vicinity of the proposed development; the visual dominance of the proposed buildings; biodiversity impacts; traffic; impact on the Mayne River through to the standard of the development for future occupants.

## 4.0 **Planning History**

4.1. **Site:** No recent and/or relevant planning history.

### 4.2. **Setting – Recent & Relevant**

4.2.1. **P.A. Ref. No. 4658/23: *Adjoining site to the south (Site 5, Northern Cross, Malahide Road, Dublin 17).***

On the 13<sup>th</sup> day of March, 2024, permission was **granted** for a mixed-use development (up to 12 storeys' in height (over basement) of 53 No. apartments (1 No. 1-bed studio, 25 No. 1-beds, 24 No. 2-beds and 3 No. 3-beds) with 2 No. ground floor commercial units (Class1 or Class 2 use) all associated works. This application essentially relates to amendments to the previously permitted scheme P.A. Ref. No. 3506/20 under which permission was granted for 55 no. apartments (3 No. studio units, 27 No. 1-bedroom, 22 No. 2-bedroom and 3 No. 3-Bedroom). Additionally, 2 double height commercial units (for Class 1 or Class 2 use) in a building ranging in height from 8 storeys to 12 storeys. This permission has an expiry date of the 31<sup>st</sup> day of May, 2029.

4.2.2. **ABP-314386-22: 'Site 10' - Mayne River Avenue, Northern Cross, Malahide Road, Dublin 17 (Note: c190m to the south west of the appeal site).**

On appeal to the Board planning permission was **refused** for a development consisting of 156 no. apartments and associated site works. The stated reason reads: *"Objective CUO25 of the Dublin City Development Plan 2022-2028 requires that large scale developments over 10,000sqm must provide at a minimum for 5% community, arts, and cultural spaces as part of the development. The proposed development does not provide for such floor area, even though it provides for an area in excess of*

10,000sq m. The proposed development, therefore, would materially contravene, objective CU025 of the Dublin City Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area". (Note: Decision date: 18.02.2025).

4.2.3. **ABP-314408-22: Rosemount House, Mayne River Avenue, City Junction Business Park, Northern Cross, Malahide Road, Dublin 17 (Note: c186m to the south west of the appeal site).**

On appeal to the Board planning permission was **refused** for a development consisting of the demolition of existing buildings on site, construction of 176 no. apartments and associated site works. The stated reason is the same as for ABP-314386. (Note: Decision date: 17/02/2025).

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Dublin City Development Plan, 2022-2028, is applicable, and under which the site is zoned '*Strategic Development and Regeneration Areas – Zone Z14*', with the Mayne River to the north of the city defining the northern fringes of Dublin City Councils administrative area, together with the opposite side of the Mayne River lies within the administrative boundaries of Fingal County Council. The stated objective for such lands is: "*to seek the social, economic and physical development and/or regeneration of an area with mixed-use, of which residential would be the predominant use.*"
- 5.1.2. Section 14.7.13 of the Development Plan in relation to such areas state that: "*these are areas where proposals for substantial, comprehensive development or redevelopment have been, or are in the process of being, prepared*" and that "*Z14 areas are capable of accommodating significant mixed-use development, of which residential would be the predominant use*". Of note residential; childcare and community land uses are listed as permissible under 'Z14' zoned lands.
- 5.1.3. The site also forms part of the Strategic Development Regeneration Area SDRA 1 – Clongriffin/Balmaine and Environs as well as the Key Urban Village of Malahide Road (Clarehall /Northern Cross / Table 2-8: Core Strategy and Settlement Hierarchy) under the Development Plan.

- 5.1.4. Section 13.3 of the Development Plan in relation to this SDRA area states that: *“the overall vision of the lands is to facilitate a highly sustainable, mixed-use neighbourhood, centred on key public transport interchanges, with a distinct identity and sense of place”*. It also states that: *“the lands can generate significant new residential units. The majority of this build-out would be focused on the KUV at Clongriffin and Belmayne Town Centre and at Belcamp, in addition to the phase 6 lands identified in the LAP. Additionally, the wider lands are identified in the RSES and MASP as playing a strategic role in facilitating the consolidation of the Dublin Metropolitan Area, by providing new homes and communities that are focused on existing and proposed public transport corridors”*.
- 5.1.5. Chapter 2 of the Development Plan sets out the Core Strategy . It includes Objective CSO10 which supports the development of brownfield, vacant and regeneration sites and CSO14 which seeks to facilitate a co-ordinated approach to the future development of strategic growth areas including the Belmayne-Clongriffin area.
- 5.1.6. Chapter 3 of the Development Plan deals with the matter of Climate Action. Of note:
- Policy CA8 - Climate Mitigation Actions in the Built Environment.
  - Policy CA9 - Climate Adaptation Actions in the Built Environment.
  - Policy CA10 requires all new developments involving 30 residential units and more to submit a Climate Action Energy Statement.
- 5.1.7. Section 4.4. Chapter 4 of the Development Plan - Shape and Structure of the City. States that the: *“the vision for the urban form and structure of the city is to achieve a high quality, sustainable urban environment, which is attractive to residents, workers and visitors”*. It sets out that the key strategic approaches to achieving this vision underpinning the Development Plan includes: *“to continue to extend the form and structure of the city for the benefit of communities in the new developing areas such as Belmayne-Clongriffin” ... “and in doing so, embrace the potential for quality urban design and placemaking”*.
- 5.1.8. Section 4.5.2 of Chapter 4 of the Development Plan sets out the City Councils approach and one of its key objectives in relation to newly developing areas on the fringe of the city administrative area including Clongriffin-Belmayne, an area that have seen significant development at investment over the past number of years, is to:



*“ensure that these large suburban areas are integrated into the structure of the city, both in relation to the city centre and the metropolitan area. Future development will be aligned with the strategic development areas and corridors set out under the Dublin MASP and further opportunities for intensification of infill, brownfield and underutilised land fully explored, particularly where it aligns with existing and future public transport infrastructure”.*

5.1.9. Of note are the requirements of the following Development Plan policies:

- Policy SC11: Compact Growth - In alignment with the Metropolitan Area Strategic Plan, to promote compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands, particularly on public transport corridors, which will:

- Enhance the urban form and spatial structure of the city.

- Be appropriate to their context and respect the established character of the area.

- Include due consideration of the protection of surrounding communities and provide for enhanced amenities for existing and future residents.

- Be supported by a full range of social and community infrastructure such as schools, shops and recreational areas.

- Have regard to the criteria set out in Chapter 15: Development Standards, including the criteria and standards for good neighbourhoods, quality urban design and excellence in architecture.

- Policy SC12: Housing Mix – seeks to promote a variety of housing/apartment types.

5.1.10. Objective GIO6 of the Development Plan seeks to support local cycleways / walkways including along the Mayne River’s existing route.

5.1.11. Policy SI12 of the Development Plan seeks to: *“provide opportunities for enhanced river corridors in the following Strategic Development and Regeneration Areas (SDRAs) in order to harness significant opportunities for river restoration where feasible”.* The list includes SDRA 1 Clongriffin/ Belmayne and Environs.

- 5.1.12. It is a policy under SI19 of the Development Plan to facilitate the provision of new, or the upgrading of existing, flood alleviation assets where necessary and in particular, the implementation of proposed flood alleviation schemes including River Mayne.
- 5.1.13. Section 9.5.2 of the Development Plan deals with the matter of urban watercourses and water quality. It highlights the role of the Water Framework Directive (WFD) in protecting and improving water quality in support of ecology and the attainment of good status in our rivers, lakes, groundwater and transitional coastal waters by 2027.
- 5.1.14. Section 11.5.5 of the Development Plan deals with Archaeological Heritage and it sets out under Policy BHA26 that the City Council will seek to protect archaeological material. Additionally, Policy BHA019 of the Development Plan states that the City Council will seek: *“to provide for the protection, preservation and promotion of built heritage, including architectural heritage, archaeological heritage” ... “and support the in-situ presentation and interpretation of archaeological finds within new developments”*. Additionally, Policy BHA28 of the Development Plan seeks that new developments reflect appropriate local archaeological, historical or cultural associations in their naming.
- 5.1.15. Appendix 5 of the Development Plan provides additional residential standards.
- 5.1.16. Volume 6 of the Development Plan deals with Appropriate Assessment and Natura Impact Reporting.

## 5.2. Local – Other

- 5.2.1. **Clongriffin-Belmayne Local Area Plan, 2012-2018, (as extended):** The appeal site lies within the former area of this local area plan.
- 5.3. **Local – Belmayne & Belcamp Lane Masterplan, 2020:** This masterplan document provides detailed urban design framework for buildings, movement, space and land-use at Belmayne and Belcamp Lane. The eastern portion of the site is indicated in the above document to overlap with an indicative alignment of a greenway that runs alongside the southern banks of the Mayne River in a roughly east west direction (Note: Figure A2.2 - Clongriffin - Belmayne LAP Phasing Priorities Map).

- 5.3.1. Figure B3.1 - Access and Movement of this document indicates that it is a City Development Plan Road Objective Malahide Road/R107 (including north fringe improvements)
- 5.3.2. B6 (7) - Buffer Areas: *“a series of landscape buffers adjacent to existing major road infrastructure will be provided to mitigate future residents against noise and air pollution. Residential development will be setback some 6-10m (or further where required due to wayleaves) from the edges of the vehicular carriageway, and significant planting provided).*
- 5.3.3. Figure B6.1 - Landscape and Urban Grain: Site is located on lands as private/semi-private open space.
- 5.4. **Local – Fingal Development Plan, 2023 – 2029:** The land to the north of the River Mayne is subject to the provisions of the Fingal Development Plan, 2023 – 2029.
- 5.5. **Regional Guidelines**
- 5.5.1. **Eastern and Midland Regional Assembly - Regional Spatial and Economic Strategy 2019-2031 (EMRA-RSES):** This Strategy supports the implementation of The National Planning Framework (NPF). The RSES provides a development framework for the region through the provision of a Spatial Strategy, Economic Strategy, Metropolitan Area Strategic Plan (MASP), through to Climate Action Strategy. Of note:
- Dublin MASP is an integrated land use and transportation strategy for its metropolitan area.
  - Regional Policy Objective (RPO) 3.2: Promotes compact urban growth, targets at least 50% of all new homes to be built, to be within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
  - RPO 3.3: sets out that Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill/brownfield regeneration sites including the provision of increased densities in keeping with national policy.

- RPO 4.3: supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area as well as to co-ordinated such development with the delivery public infrastructure.
- RPO 5.4: seeks that future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in relevant Ministerial Guidance documents.

## 5.6. National

- **The National Planning Framework – Project Ireland 2040, (2018):** This document sets out the Governments strategic national plan for shaping the future growth and development of Ireland for the period up to 2040. Of note National Strategic Outcome 1 (NSO 1 - Compact Growth), sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up urban areas; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards.
- **Housing for All – A New Housing Plan for Ireland to 2030, 2021:** The government’s housing plan to 2030. It aims to improve Ireland’s housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes
- **Climate Action Plan, 2024:** This plan implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions.
- **National Biodiversity Action Plan, (NBPA), 2023-2030:** The NBAP strives for a “*whole of government, whole of society*” approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “*act for nature*”. This Plan builds upon the achievements of its predecessor.

- **Section 28 Ministerial Guidelines**

The following guidelines are relevant:

- *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, (2024).* Section 5.3 of these Guidelines includes achievement of housing standards. Of relevance are:
- *Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023.*
- *Urban Development and Building Height, Guidelines for Planning Authorities, 2018.*
- *The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009.*
- *Childcare Facilities – Guidelines for Planning Authorities, 2001.*
- *Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’, 2007.*
- *Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018, (updated 2019).*
- *EPA Guidelines on the Information to be contained in Environmental Impact Assessment Reports, 2022.*
- *Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023.*

#### 5.7. **Other**

- *Design Manual for Urban Roads and Streets, 2019.*
- *Greater Dublin Area Transport Strategy, 2022-2042, NTA.*
- *Part V of the Planning and Development Act 2000 Guidelines, 2017.*
- *Housing Circular 28/2021 (Affordable Housing Act 2021 - Amendments to Part V).*

#### 5.8. **Natural Heritage Designations**

- 5.8.1. The appeal site is not located in or immediately adjacent to a Natura 2000 Site, a Natural Heritage Area (NHA) or a proposed NHA. The River Mayne lies c25m to the

north of the site at its nearest point. The Mayne River reaches Baldoyle Bay by way of Mayne Bridge, between Baldoyle and Portmarnock.

5.8.2. There are a number of drainage ditches/channels within the setting of the site.

5.8.3. The nearest Natura 2000 Sites are located to the east of this appeal site. They are Baldoyle Special Area of Conservation (Site Code: 000199) and Baldoyle Special Protection Area (Site Code: 004016). They are located c2.3km and c2.6km respectively from the site as the bird would fly. Dublin Bay contains several Natura 2000 sites and at a further distance are the following sites:

- North Dublin Bay SAC (Site Code: 000206) is located c3.5km to the south east.
- North Bull Island SPA (Site Code: 004006) is located c3.5km to the south east.
- Northwest Irish Sea SPA (Site Code: 004236) is located c4.2km to the east.
- Malahide Estuary SAC (Site Code: 000205) is located c4.6km to the north east.
- Malahide Estuary SPA (Site Code: 004025) is located c5.2km to the north east.

5.8.4. The above noted Natura 2000 sites are designated for a number of coastal/estuarine habitats and a range of bird species.

## 5.9. Built Heritage

5.9.1. The site is located circa 286m to the south east of Recorded Monument and Place DU015-033 and at a further distance circa 399m also to the south east of Recorded Monument and Place DU015-116.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The Third-Party Appeal can be summarised as follows:

#### **Procedural**

- The Planning Authority did not notify any party that further information had been received.
- The applicants further information response does not overcome the concerns they raised in their submission to the Planning Authority.

### **Mayne River**

- The proposed development does little to offset its impact on wildlife and biodiversity associated with the Mayne River.

### **Residential Amenity for Future Occupants**

- The one-bedroom apartments fail to meet the required minimum for bedrooms.
- It is not accepted that the daylight, sunlight and overshadowing impact would be as indicated in the documentation provided.

### **Childcare Facilities**

- The Planning Authority has not had regard to the lack of childcare facilities in this area and the demands this development would place upon it.

### **Visual Amenity Impact**

- The proposed development would impact on views.

## **6.2. Applicant Response**

6.2.1. The applicant's response can be summarised as follows:

### **Section 138 of the Planning and Development Act, 2000, as amended (PDA).**

- The Board is requested to dismiss this appeal on the basis of its grounds are not substantial.

### **Mayne River**

- The appellant does not substantiate their concerns in relation to Mayne River.
- This development is well setback from this river. The revised design provides a better blend of river side setting as well as access to adjoining to the north.
- The proposed development reaches an acceptable balance between biodiversity and the provision of a sufficiently dense residential.

### **Standard of Future Occupants Amenity**

- Having reviewed the apartment bedroom sizes it is noted that Type 8h and 9 are above standard for bedroom sizes and that Type 8 might require a minor 250mm

adjustment to the entrance door and corridor, but this should be considered in the overall context of a scheme where the overall sizes exceed minimum standards.

- All apartments are dual aspect, and the vast majority have more private open space than is required.
- The provision of three-bedroom dwelling units is above the minimum standards.
- This scheme includes qualitative communal open space and play facilities.

### **Daylight and Sunlight Analysis**

- Planning Authority was satisfied that their daylight and sunlight concerns were addressed by their further information response.

### **Creche**

- The revised scheme does not require the provision of a creche/childcare facility.
- The Planning Authority's further information request discouraged the provision of the proposed creche that formed part of the proposed development as lodged.
- There is a 98 space creche permitted by the Board on appeal (Note: ABP-314169-22 to the north of the site.
- An examination of the current provision of early childcare facilities in the area indicates that it can sufficiently cater for its future population.

### **Development on the Site**

- The site is zoned 'Z14' and strategic development and regeneration area lands like this plays an important role in achieving National Strategic Objectives in providing compact development.
- This development will deliver a high quality of residential development in a strategic location.

### **Environmental Impacts**

- The proposed development has been designed with environmental impacts in mind.

### **Natural Features**

- The basement has been redesigned to minimise impact on trees to be retained.



- The majority of tree loss relates to trees that would fall under high winds and represent a danger to human life.

#### **Other**

- The site benefits from an excellent location relative to local services and public transport.

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

6.3.1. The Board is requested to uphold its decision. If permission is granted it is requested that the following conditions be applied:

- Section 48.
- Bond.
- Contribution in lieu of Open Space, if applicable.
- Naming & Numbering.
- Management Company.

### **6.4. Observations**

6.4.1. None.

## **7.0 Assessment**

### **7.1. Introduction**

7.1.1. Having carried out an inspection of the site and its setting, examined the appeals and submissions received by the Board, reviewed all other documentation on the case file, examined the planning history of the site and its setting, and had regard to the relevant local, regional, and national planning provisions, I consider that the main issues that arise in this appeal case relate to the concerns raised by the Third Party in their appeal submission to the Board. Alongside the First Party in their response to the grounds of appeal request that the Board dismiss this appeal case under the provisions of Section 138 of the Planning & Development Act, 2000, as amended.

7.1.2. I also note that I am satisfied that the proposed development sought under this application gives rise to no other substantive planning issues that warrant detailed consideration by the Board in their determination of this appeal case. I therefore

propose to deal with the key issues that arise in this appeal case under the following broad headings:

- Procedural Matters
- Principle of the Proposed Development & Pattern of Development
- Compliance with Planning Provisions for SDRA 1
- Residential Amenity – Future Occupants
- Residential Amenity Impact – Properties in the Vicinity
- Biodiversity & Ecology
- Childcare

7.1.3. I note to the Board that I have carried out a Stage1 and Stage 2 Appropriate Assessment (AA) as well as a Pre-Screening and a Screening Determination for Environmental Impact Assessment (EIA) under Appendix 1 attached.

7.1.4. For clarity purposes I note that my assessment is based on the proposed development as revised by the applicants further information response received by the Planning Authority on the 28<sup>th</sup> day of February, 2024. This is on the basis that it makes a number of qualitative amendments to the proposed development as lodged and overall is more consistent with the proper planning and sustainable development of the area.

7.1.5. In particular I consider that the amended positions of the proposed two residential blocks with greater lateral separation distance from the Mayne River and northern boundary of the site which bounds land that are envisioned in the urban structure for the parcel of strategic development and regeneration lands the site forms part of as future green infrastructure. Additionally, the amended design includes design measures to ensure that the proposed development would not be at risk of flooding through to more qualitative landscaping of the northern boundary and improved levels of daylight penetration into the interior spaces of the residential blocks as well as the communal open space positioned between them.

7.1.6. It is of note also that the amended scheme results in a modest reduction in unit number to 72 but still maintains 30 of these units as three bedrooms. The provision of apartment units with increased bed spaces and larger internal floor areas meets a recognised housing demand within Northern Cross locality. Particularly against the

context of many of the previously permitted and implemented multi-unit apartment schemes were predominated by single- and two-bedroom unit types.

- 7.1.7. Other improvements including the increased provision of bicycle parking spaces, improvements to amended Malahide junction design in relation to the provision of safer vehicle access onto the public network.
- 7.1.8. As set out under Section 2 of this report the revised design is also accompanied by a number of additional documents which include in my view allows for a more informed decision to be made.

## **7.2. Procedural**

- 7.2.1. The Third-Party Appellant in their appeal submission to the Board raises concerns that the Planning Authority failed to notify them of the applicants further information response.
- 7.2.2. On this point I note that the Planning Authority deemed that the applicants further information response was not significant in its nature and extent. It therefore concluded that no new public notices were required. In this circumstance I concur with the Planning Authority that it is not a requirement under relevant legislative provisions for such notices to be issued. I also consider that this concern is a procedural one that is outside of the remit of the Board in their determination of this appeal case.
- 7.2.3. The First Party in their response to the grounds of appeal seek that the Board dismiss this appeal case on the basis that it has been lodged by a Party who provide no substantive planning grounds in their appeal submission. They contend that the Appellants appeal submissions provide comments with no detailed explanation in relation to them. As such they consider that the comments do not raise specific planning issues in relation to the proposed development and the potential impact on the appellants property or on any other matter. They also consider that the concerns that the Appellant raised in their submission to the Board in relation to the proposed development as lodged were dealt with in their further information response submitted to the Planning Authority. For these reasons the First Party seek that the Board under the provisions set out under Section 138 of the Planning & Development Act, 2000, as amended, dismiss this appeal and allow the Planning Authority's notification to grant permission to proceed.

- 7.2.4. Having reviewed the Third-Party appeal submission received by the Board in detail I recommend that the Board should not dismiss this appeal case under the provisions of Section 138 of the said Act. This conclusion is based on the consideration that whilst I concur with the First Party's comments in relation to the generality and limited scope of the appeal submission. However, the appellant raises points that relate to potential planning impact concerns in relation to the proposed development and is submitted with a copy of their initial submission on this application to the Planning Authority. I consider that the primary concerns raised by the Third-Party Appellant in addition to the procedural concern already discussed above relates to the proposed developments height and density; its proximity to the River Mayne; the capacity of the receiving environment to absorb any additional childcare demands; and amenity impact of the development on its setting.
- 7.2.5. On this basis I do not find that there is a substantive basis for the Board to dismiss this Third-Party appeal case under the provisions of Section 138 of the said Act and that the Board assess this appeal case on an entirely *de novo* basis.
- 7.2.6. As a precaution should the Board be minded to grant permission it may wish to include an advisory note setting out the provisions of Section 34(13) of Planning and Development Act, 2000 (as amended) relating to 'Permission for Development', which states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'. Therefore, in the event permission is granted, there may be other legal considerations that apply, and which the landowner may need to address outside of the planning system.

### **7.3. Principle of the Proposed Development & Pattern of Development.**

- 7.3.1. As set out under Section 2 of this report above the proposed development as revised in summary consists of the demolition of the existing buildings and structures on site as well as site clearance in order to facilitate the construction of two multi-unit apartment blocks labelled Block 'A' and 'B'. These blocks range in height from 6 to 8 storeys and Block 'B' which ranges in height from 7 to 8 storeys. In total as revised they contain 72 dwelling units, i.e. which is a reduction from the 79 dwelling units proposed and the 20-place childcare facility has been omitted, and instead the proposed development would include a 'Community Unit' addressing Malahide Road.

- 7.3.2. The application site is zoned 'Strategic Development and Regeneration Areas – Z14' under the Dublin City Development Plan, 2022-2028. The land use objective in Z14 is: *"to seek the social, economic and physical development and / or rejuvenation of an area with mixed use of which residential and 'Z6' would be the predominant uses."*
- 7.3.3. Residential and Community related land uses are listed as being permissible under Section 14.7.13 of the Development Plan. This section of the Development Plan also indicates that the 'Z14' zoned lands are capable of accommodating substantial comprehensive development and redevelopment with a focus on residential land use.
- 7.3.4. The site is also located within 'Strategic Development and Regeneration Area 1 – Clongriffin/Belmayne and Environs (SDRA 1)' under the Development Plan. Section 13.1 of the Development Plan considers these areas as being: *"capable of delivering significant quantities of homes and employment for the city"* and are supported under its core strategy. Also, Section 4.5.2 of the Development Plan indicates that the vision for these lands includes untapping their opportunities for intensification of infill, brownfield and underutilised lands particularly where it aligns with existing and future public transport.
- 7.3.5. Of further note Table 13.1 of the Development Plan indicates that SDRA 1 is designated for residential or a mixture of residential/other uses with an estimated housing capacity for 6,950-7350 and supported by DART+, BusConnects, completion of Main Street and social infrastructure. This housing figure is further supported by Table 5 of Appendix 10 of the Development Plan and would appear to not yet to be fulfilled.
- 7.3.6. The Development Plan also indicates that SDRA's: *"will play a key role in meeting the National Strategic Objectives, and particularly those of compact growth (NSO 1), sustainable mobility (NSO 4) and the transition to a low carbon and climate resilient society (NSO 8)"*.
- 7.3.7. It also considers that these lands align with National Policy Objective 3b of the National Planning Framework (NPF) and are critical to the delivery of the core strategy set out in Chapter 2 of the Development Plan. On this point I note that the core strategy in a manner consistent with the NPF seeks to achieve a target of 50% of new homes within the existing built-up footprint of the city. This figure is also consistent with the

provisions of Regional Spatial and Economic Strategy within the context of the metropolitan area of Dublin City.

- 7.3.8. In summary local through to national planning provisions support the sustainable development of brownfield and infill serviced lands at appropriate locations as part of the consolidation of built-up areas of Dublin's metropolitan area and as part of supporting the optimal use of the finite resource of serviced, accessible, through to well served by social and community infrastructure as part of spatial management to achieve more sustainable climate resilient residential outcomes.
- 7.3.9. Against the above context I consider that the proposed demolition of two vacant of no particular merit detached dwellings, the removal of associated ancillary structures through to the clearance of this site as part of facilitating the revised multi-unit residential scheme set out in the applicants further information response on the amalgamated plots of No. 1 & 2 Hawthorne Cottages is consistent with the proper planning and sustainable development of the area.
- 7.3.10. Further, the associated site clearance which includes the removal of some of the natural features on the boundaries of the site are not subject to any tree preservation order or other specific protection. However, though in their overgrown state they do support and reinforce local biodiversity along the River Mayne corridor, but the revised scheme proposes compensatory qualitative planting including at its most sensitive to change northern and western boundaries.
- 7.3.11. Additionally, the site forms part of the Key Urban village of Malahide Road (Clarehall / Northern Cross). This aligns with RSES which identifies this location a Level 3 District Centres' in the metropolitan area of Dublin city.
- 7.3.12. In this regard, Section 13.3 of the Development Plan, indicates that unlocking the development potential of these lands will facilitate the development of the Key Urban Village (KUV) as set out under Figure 13-4 of the said plan.
- 7.3.13. Within this KUV the Development Plan visions large scale regeneration / development. This I consider is reflected in the pattern of development of development over the last few decades and has been facilitated by previous Development Plans and Local Area Plans.

- 7.3.14. Further, the Development Plan indicates under Section 13.3, that there is potential for significant new residential units with the site itself located in close proximity to the north of the main KUV area as indicated in Figure 13-1 and with the site's roadside frontage connected to it via what is indicated in Figure 13-1 as a 'Core Pedestrian Spine'. This subject site is located in close proximity to the north of this KUV area.
- 7.3.15. Moreover, Figure 13-1 also indicates that the site lies to the south of an access and permeability spine that runs in a roughly east west direction along the southern side of the Mayne River corridor. Thus, in time these lands will provide further enhanced permeability particularly for active travel modes. The site is also within reach of public transport options with a number of Dublin Bus Stops in its vicinity including one which provides connection to Clongriffin Dart Station at c15minute intervals. This train station is c2.3km on foot but c1.95km as the bird would fly. According to Table 4 of Appendix 10 of the Development Plan in a manner consistent with RSES Metropolitan Area Strategic Plan (MASP) further enabling infrastructure is proposed for this location. With this listed as including but not limited to access to rail station, bus upgrades, new road connections, as well as drainage, parks and social infrastructure.
- 7.3.16. I further note that the site occupies a transitional in land use character setting that lies in area where the administrative areas of Dublin City Council and Fingal County Council meet.
- 7.3.17. In this regard whilst the site forms part of a larger area of 'Z14' zoned land under the said Dublin City Development Plan it is situated at its closest point c22m to the south of the Mayne River. With this river effectively demarcating the boundary between the administrative areas of Dublin City Council and Fingal County Council. The land between the northern boundary of the site and the southern banks of the River Mayne to the immediate north of the site are indicated under Figure 13-1 as 'existing green open space' with an access and permeability route indicated on them. On the opposite side of the River Mayne its northern banks are indicated as the future 'River Mayne Greenway' route.
- 7.3.18. It is of note that the River Mayne greenway is deemed to be an important element of the urban structure of these SDRA 1 (Z14) zoned lands. With an element of green infrastructure synergy with the riverbanks on the southern side of this watercourse.

- 7.3.19. In this context that the lands to the immediate north of the River Mayne are zoned 'Open Space' under the Fingal County Development Plan, 2023-2029. With the lands to the north of this zoning largely zoned for the protection and improvement of residential amenities. Within this vicinity there has been substantial more consolidated at greater density residential development.
- 7.3.20. This includes around Belcamp Hall, a Protected Structure. The functional character of the land that fronts onto the Malahide Road to the north of the site and falling inside the administrative boundaries of Fingal County Council as recently redeveloped consist of taller, more compact, dense multi-unit residential.
- 7.3.21. Conclusion: Having regards to the above I am satisfied that the general principle of the proposed development, is acceptable, subject to safeguards.

#### **7.4. Compliance with Planning Provisions for SDRA 1**

##### **7.4.1. Overview**

The appellant raises a number of general concerns in relation to the proposed development. In particular they note the density and height of the proposed development as well as the site's location in proximity of the River Mayne. They contend that the revisions made by the applicant to the proposed development as part of their further information response do not go far enough to overcome their concerns on these matters.

On the other hand, the First Party in their submission to the Board consider that their further information response has substantially addressed the concerns raised by the Appellant as well as other Third Parties in their submissions to the Planning Authority during its course of determining this proposed development. They contend that as revised the proposed development achieves more robust consistency with the local through to national planning provisions as well as guidance. They also consider that their proposed development is a modest and qualitative redevelopment of this site and, if permitted, it would deliver high quality residential development in what is a strategic and appropriate location for it. Particularly in the context of its compatibility with the urban structure of this emerging, accessible and well served neighbourhood on the urban fringe of Dublin city.



In this context I note that Section 13.3 of the Development Plan sets out the rationale for the designation of the parcel of land that the site forms part of as the Clongriffin-Belmayne as a Strategic Development and Regeneration Area (SDRA) as well as provides a strategic spatial and urban design framework to guide future development.

The latter correlates with the more general overarching principles and visions set out under Section 13.2.1 of the Development Plan including Objective SDRAO1. I note that this objective indicates that the City Council will support the ongoing redevelopment and regeneration of the SDRA's in accordance with the guiding principles and their associated map. Alongside subject to the qualitative and quantitative development management standards set out in Chapter 15 of the Development Plan.

Section 13.3 of the Development Plan indicates that at the time of the plan preparation that it was considered that these lands have the potential to generate significant new residential units with that focused on the sites at Clongriffin and Belmayne. Also, with a focus on the KUV at Clongriffin. It indicates that this focus aligns with the fact that these lands are identified in the RSES and MASP as playing a strategic role in facilitating the consolidation of Dublin's Metropolitan Area. It further indicates that this would be achieved by providing new homes and communities that are focused on existing and proposed public transport corridors.

Within the overall vision of the SDRA 1 lands is: *"to facilitate a highly sustainable, mixed use neighbourhood, centred on key public transport interchanges, with a distinct identity and sense of place"*.

Whilst I accept that the above further reinforces the principle of the proposed development as set out in the previous section of this report. Notwithstanding I consider it appropriate to examine the proposed development against the guiding principles for this SDRA 1. I therefore propose to examine in the following subsections below whether or not the proposed development is consistent with them.

#### **7.4.2. Urban Structure**

The Development Plan indicates that the initial urban structure for these lands was set out in the previous LAPs. With the area having developed with a focused on its two KUV's. This I note includes the KUV of Clarehall/Northern cross which is in close

proximity to the south of the site and separated from it by the vacant parcel of land referred to in the documentation as 'Site 5'.

The proposed position of the northern building line associated with Blocks 'A' and 'B' has been increased by an additional 2m from the northern boundary in comparison to the scheme as lodged. As previously discussed, the northern boundary of the site adjoins open space zoned land that in time is envisioned to form part of a green corridor along the southern banks of the River Mayne with an active permeability route. On this point at their nearest point the northern boundary of the site is c22.6m from the southern banks of the River Mayne and 25.5m at their furthest. In terms of placement from the northern boundary of the site at their nearest point they would be c5.29m to 8m from the northern boundary of the site. With the removal of mainly trees that are classified as being of 'poor quality' from the northern boundary and with compensatory as well as additional tree and hedge planting proposed as part of the revised landscaping scheme.

Thus, providing a natural buffer between the proposed two buildings and their associated spaces where they terminate the north western boundary of SDRA 1 as appreciated from the public domain of Malahide Road and also its junction with Belmayne.

Additionally, the landscape treatment along the northern and western boundary of the site as revised would positively contribute to achieving the proposed associated riparian strip / linear park on the adjoining lands indicated in Section 13.3 of the Development Plan as a riparian strip / linear park. With this being on the opposite bank of the envisage greenway on the opposite banks of the River Mayne.

The reversal of the site's vacant unkempt state of No. 1 and 2 Hawthorne Cottages by way of the provision of two buildings that seeks to be legible in their visual context as focal buildings that mark the edge of the SDRA 1 zoned lands would be a positive outcome for its visual setting. In particular from existing but also future proposed public realm in its visual context.

The proposed development also includes improvements to the adjoining pedestrian footpath that runs alongside the site's roadside boundary in a manner that is consistent with the key principles set out for this SDRA's urban structure. In its existing state though forming part of what is indicated in Figure 13-1 of the Development Plan as a

‘Core Pedestrian Spine’ it is restricted in its width and poorly surfaced. Additionally, I consider that the overgrown and derelict condition of both No. 1 and 2 Hawthorne Cottages fails to provide any positive animation through to sense of safe permeability for users of this ‘Core Pedestrian Spine’. The proposed development together with its residential and community unit which addresses Malahide Road would visually and functionally add vibrancy to this Core Pedestrian Spine. With the building design including additional passive surveillance of it.

My final comment in relation to the key principles set out for urban structure under Section 13.3 of the Development Plan is that it advises that the: *“urban form and block layouts shall be arranged in a perimeter block configuration and shall form a continuous urban edge with the street in order to create enclosure, provide passive surveillance and animation”*. In this regard, I consider that the proposed arrangement of Block ‘A’ and Block ‘B’ on site achieves this whilst providing a staggered presentation to Malahide Road in terms of setback. I consider that this together with its qualitative landscaping of its roadside boundary achieves an appropriate balance between the hierarchy of buildings and spaces at this edge of SDRA setting. Alongside as a design it is responsive to envisioned future change along either side of the River Mayne’s banks.

Conclusion: The proposed development is one that accords with the urban structure envisaged for these SDRA 1 zoned lands.

#### **7.4.3. Land Use & Activity**

As concluded in the previous section of this assessment the general principle of the proposed residential development and community unit is one that is consistent with the land uses as well as intensity of development envisaged at this location. Though I note that it is not a requirement for residential scheme of this size to provide a community unit as part of its mix of land uses. Nonetheless this unit as pointed out by the Planning Authority could subject to appropriate managed could be used to provide additional amenities particularly for occupants of the proposed apartments including potentially remote working hub. Moreover, the site is located in proximity to one of Clongriffin/Northern Cross KUV where high residential densities are encouraged.

In this regard I note that the proposed scheme as revised proposes a density of 170 dwelling units per hectare.

This is a reduction from 188 dwelling units per hectare as proposed under the scheme as lodged with the Planning Authority.

Despite this reduction in residential unit number, I am satisfied that the lower density still accords with Table 1 of Appendix 3 of the Development Plan. I note to the Board that this indicates a net density range of 100 to 250 units per hectare on SDRA lands. I also consider if permitted it would result in significant densification and intensity of land use on these serviced vacant zoned lands. This outcome would be consistent with not only local planning provisions but also regional and national planning provisions as well as guidance.

At a national level I consider it to be consistent with Table 3.1 of the Sustainable and Compact Settlements Guidelines for Planning Authorities, 2024. Having regard the locational attributes of the site and its setting I am satisfied that it could be considered to fall under 'City – Urban Neighbourhoods' category of land. This is on the basis that its zoned a strategic location for development under the Dublin City Development Plan. In such locations the Guidelines indicate that it is a policy and objective that residential densities in the range of 50 to 250 dwelling units per hectare (net) shall generally be applied.

Conclusion: I am satisfied that both the land use and the activity of land use of the proposed development accords with the key principles for these SDRA 1 zoned lands and that the site as well as its setting has a recognised capacity to absorb this intensity of development.

#### **7.4.4. Height**

The proposed development as revised includes two multi-unit residential blocks. In this regard I note that Block 'A' ranges in its height from 6 to 8 storeys with a maximum height of 16.625m. Additionally, Block 'B' ranges in its height from 7 to 8 storeys with a maximum height of 17.107m. I further note that Block 'A' principal façade presents to the Malahide Road and as such it would face onto its busy junction with Belmayne.

The guiding principle for height is given as: *"building heights shall respond to the proposed urban structure and land uses and activities"*.

It further indicates that in general the KUV centres shall contain the greatest heights in order to reinforce their status, subject to amenity and design safeguards.

It also notes that gateway buildings form a key structuring element that can enhance legibility and avoid monolithic heights. It further notes that any proposed height must have regard to the existing neighbourhood and character in order to protect residential amenity.

The minimum height set out in the Development Plan for the KUV to the south of the site is 5 storeys.

Whilst I acknowledge that the site lies just outside of the shaded circle for this KUV in Figure 13-1, notwithstanding, it occupies as said a site that faces onto the T-junction of the Malahide Road/Belmayne. Malahide Road and Belmayne are generous public domains in terms of their overall width. The building blocks on the eastern side of this junction are c6-storeys in their height and with more substantial mass, volumes and scale to the development sought for a site that relates to two irregular linear rectangular plots whose last function was associated with the modest detached single storey dwellings they contained.

It is of note also that at the opposite side of the Malahide Road and Belmayne junction the predominant building height is 6-storey. This adds to the suitability of this site to receive a building of greater height in order to provide a focal end point of this junction as appreciated particularly in the context of westerly views from the public to private domain of Belmayne a boulevard designed thorough fare.

It also is an entrance building in terms of its location at the northern most end of the SDRA 1 lands located to the west of the Malahide Road.

In relation to the SDRA itself the pattern of existing and permitted buildings include buildings of greater height than that proposed for Block 'A' and Block 'B'.

In terms of the immediate setting and the Malahide Road, I firstly note the yet to be developed adjoining lands to the south, i.e. 'Site 5'. Under P.A. Ref. No. 4658/23 permission was granted for building up to 12-storeys in height (over basement) on this site (See: Section 4 of this report above).

At its tallest point this permitted building has a given height of 37.91m and at its nearest point to the subject site boundary this proposed building would be setback c20.796m with the space in between containing landscaping, at grade car parking and circulation space.

Relative to this permitted building the proposed blocks would result in a graduation of building height demarcating the edge location on SDRA 1 lands and provide a more human scale with less potential for undue overshadowing on the envisioned future green space along either side of the River Mayne. Further relative to the buildings to the south of Site 5 which I will now discuss the heights of Block 'A' and 'B' would add visual harmonious interest in terms to the roofscape within this locality.

To the immediate south of 'Site 5', I note that the existing buildings have a lower height with the building occupying the corner with Mayne River Street being 6-storeys building (Note: c21.68m) height at its junction with Mayne River Street. To the opposite side of Mayne River Street/Malahide junction the existing 6-storey building has a c22.63m height with this height staying largely similar but modestly staggered to where it meets the Malahide Road/Mayne River Avenue junction. At this point the existing corner building has a skillion corner feature roof over its 6-storey building form (Note: height of c22.61m).

The block to the south of Mayne River Avenue ranges in its height 6-storey corner height at the junction of Malahide Road/Mayne River (Note: c20.848m). With this continuing southward with buildings staggered in their 6 to 7 storey heights until they reach the corner of Malahide Road and the R139/Priorswood. At this point the Hilton Dublin Airport hotel building marks the junction with an increased height of 29.824m height.

In this context the proposed building height particularly Block 'A' which I note is the lower in height of the two blocks proposed would front onto the Malahide Road with its overall height not inconsistent with the predominant built forms that its setting is comprised of.

While I accept that blocks 'A' and 'B' as revised are significantly taller than the appellants property. A property which I note is located to the north of the River Mayne and is single storey in its overall built form. Notwithstanding their property occupies lands that are not part of SDRA 1 zoned lands and there is also over 40 meters lateral separation distance between it and the site.

As said the revised design includes an increased 2m setback between the proposed buildings and the northern boundary of the site with additional natural features proposed within this setback area.

I also note that Section 3 of Appendix 3 of the Development Plan identifies three general categories of height in the Dublin Context. Having regard to the proposed development and its site context forming part of a SDRA 1. Together with having height of buildings that have emerged on SDRA 1 zoned lands in the vicinity of the site. As well as the more recent grant of permission for a 12-storey building on Site 5. I consider that both Block 'A' and 'B' fall into the category of 'prevailing height'.

To this I note that Section 4 of the Height Strategy under Appendix 3 of the Development Plan states that: *"all proposals with significant increased height and density over the existing prevailing context must demonstrate full compliance with the performance criteria set out in Table 3"*. Therefore, having regards to the above considerations and the fact that the building height strategy encourages taller buildings in strategic development and regeneration areas with the heights of Block 'A' and 'B' not inconsistent with prevailing patterns of emerging buildings in this case an examination of the proposed building heights of Block 'A' and Block 'B' is not in my view required.

I further note at a national planning level that the Urban Development and Building Heights, Guidelines for Planning Authorities, December, 2018, under Section 2.5, highlights that taller buildings can bring much needed additional housing. It also indicates that they can also add to economic development through to can assist in reinforcing as well as contributing to a sense of place.

Additionally, under Section 3.1 of the said Guidelines it indicates that there shall be a presumption in favour of buildings of increased height. I note to the Board that its development management criteria test for taller buildings is consistent with Section 4 of the Building Height Strategy set out under Appendix 3 of the Development Plan.

Conclusion: I am satisfied that the height of Blocks 'A' and 'B' accord with the proper planning and sustainable development of the area.

#### 7.4.5. Design

The guiding principles for the development of Clongriffin / Belmayne SDRA 1 require new buildings to be of high architectural quality. They also seek to allow for a range of building types and designs as part of creating a visually coherent urban form. They further acknowledge that there is opportunity within this area to establish a new architectural language as part of enhancing the legibility of the area.

Against this context I consider that the proposed architectural response in terms of the overall built aesthetics, palette of materials/treatments/finishes, the building to space relationship within the site. Alongside its harmony with buildings within its context whilst still having its own sense of self and placemaking, it would nonetheless positively contribute to its visual setting as a building of its time.

Additionally, I consider that Block 'A' and 'B' building to space relationship has positively improved by way of the revisions made by the applicant in their further information response. In relation to the repositioning of Block 'A' and Block 'B' through to the amended solid to void elevational treatment allows for more qualitative daylight and sunlight penetration into the proposed dwelling units as well as to the communal open space which I note as revised contains a child play space centrally located towards the southern boundary of the site.

The additional the setback by 2m of both buildings from their northern boundary together with the more qualitative overall greening of the site boundaries also results in improved visual softening of the scheme as well as pulls back overshadowing that would arise on the envisioned linear park/riparian strip with active travel route to the south of the River Mayne.

Moreover, Site 5 as designed and laid out in its permitted scheme also provides sufficient lateral separation distance between it and the nearest block proposed on this site, i.e. Block 'A'. As such the potential resulting overshadowing through to diminishment of daylight/sunlight penetration to the interior spaces of the dwelling units within this scheme in proximity to it as well as the communal and private open spaces would not be at a level that could be considered as exceptional in this context.

Further the lateral separation distance between opposing habitable windows of existing and permitted buildings above ground floor level exceed the minimum standard set out under SPPR 1 of the Compact Settlement Guidelines, i.e. 16m.

Conclusion: I am satisfied that the proposed development as revised in terms of its design is consistent with the guiding principles for SDRA 1.

#### **7.4.6. Green Infrastructure**

In addition to the riparian strip, the linear parkland with active travel permeability the provision of the Belmayne-Belcamp and River Mayne Greenway/Linear Park on the



northern banks of the River Mayne at this location is envisaged as the principle green infrastructure component of this SDRA 1. When provided it would provide a key strategic green link that would connect this locality to its surrounding hinterland, in particular its green infrastructure and to the coastal greenway of the Irish Sea to the east.

As part of the structure of SDRA 1 the guiding principles note that the envisioned future green spaces/corridors will enhance the existing biodiversity value of this locality while also integrating SUDS features. In this context it acknowledges the importance of existing hedgerows as forming part of an important existing biodiversity corridors.

I note that the Arboricultural Report submitted with this application indicates that the movement of the proposed building blocks southwards has increased the space between the construction related works. This was considered to be a positive outcome.

It further reiterates that the tree survey found little evidence of deliberate planting on site with most trees on site appearing to have arisen as a result of the site's non-management. With the species including Elm, Ash, Wild Cherry and Aspen and with most trees being early mature ranging typically between 20 to 45 years of age.

It also found that the value of the trees would be in their cumulative and woodland effect with the population of trees on site being described as broadly unremarkable.

It indicates that within the red line area of the site that there is a total of 47 No. individual trees or tree groups and 3 No. Hedges.

As such the report regards the site as having a total of 50 no. items which it categorises as having no Category 'A' (Note: High Quality); 12 No. Category 'B' (Note: Good Quality); 30 No. Category 'C' (Note: Poor Quality) and 8 No. Category 'U' items (Dead, Dying or Otherwise Compromised Trees that are Unsustainable). In relation to Category 'U' trees it indicates that these would be normally removed however two are outside the site boundary and therefore can only be removed by their owner.

In relation to the loss of natural items it indicates that the proposed development would include the loss of 10 No. Category 'C' tree; 1 No. Category 'B' Tree and 6 No. Category 'U' trees. In relation to the Category 'U' trees it is contended that these are dead and would be recommended for cutting regardless of the proposed development.

The proposed landscaping scheme as revised reinforces the originally proposed corridor of tree protection and construction exclusion zones along the northern edge of the site with higher value tree and hedge species.

This I note is shown in submitted Tree Protection Plans as giving rise to less potential for impact to arise to the dense linear group of trees/woodland that runs alongside the immediate northern boundary of the site.

The tree survey indicates that the tree protection measures will include the provision of physical barriers. With their placement correlating with the basement level and installation of drainage infrastructure on site.

This survey also notes that the setback of the buildings including its basement levels result in little impact of any of the trees root zones of trees located in proximity but outside of the northern boundary of the site.

The Arboricultural report indicates that the greatest issues affecting trees on this site is the consumption of the site space and encroachment on otherwise retainable trees and hedge planting. It also indicates that there will be the further affect from the substantive re-contouring of various areas of the site. In this context it acknowledges that successful tree retention on site will be subject to the limitation of construction related disturbances and the provision of suitable tree protection during construction phase.

A graphical representation of tree retention and loss is shown in the drawing titled 'Malahide Road Tree Impacts Plan'. This plan also shows the relationship of the proposed building and the tree constraints for the natural features on site which are proposed to be retained as well as those in proximity to its boundary. It shows that that 1 Category 'B' tree will be lost with the remainder of the trees lost being Category 'C' poor quality trees and Category 'U' trees. In total 17 No. trees would be lost as well as the three hedgerow groups.

In relation to the tree protection the report puts forward recommendations that accord with the best practice set out under 'BS5837:2012'. I note that this is both in terms of the management of trees to be retained and also the management of the new landscaping which includes compensatory tree and hedge planting. Further, this report indicates that the tree planting, landscaping and sustainable surface water drainage measures have been incorporated into the overall design with all buildings

located away from lands that are indicated in the OPW maps as being susceptible flooding risk. In this regard I note that the SDFRA prepared in advance of the Development Plan zoned the site as being suitable for future development as part of SDRA 1.

Overall, I am satisfied that the proposed development subject to safeguards has had appropriate regard to its location beside open space associated with the River Mayne and the future vision for it as part of the urban structure of SDRA 1. I am also satisfied that the proposed development relates to a site whose overall biodiversity is low and reflects its former use as two large residential plots that have overtime become considerably overgrown and unkempt. Further, I am satisfied that where possible the landscaping scheme has sought to retain and/or not adversely impact mature natural features on site and in the vicinity. Moreover, I am satisfied that the revised landscaping scheme are revised is qualitative and responsive to its receiving environment. In time this landscaping scheme would add to the local biodiversity and provide visually buffering of the proposed scheme as observed in its setting.

Conclusion: I am satisfied that the proposed development is consistent with key guiding principles for key green infrastructure envisaged for its SDRA 1 setting.

**7.4.7. Overall Conclusion for Compliance with Planning Provisions for SDRA 1:**

I am satisfied that the proposed development as revised is consistent with the key guiding principles for SDRA 1 and would contribute to reinforcing as well as consolidating the Masterplan vision for these lands.

**7.5. Residential Amenity - Future Occupants:**

- 7.5.1. The appellant raises concern that the despite the revisions made to the proposed development as lodged that a number of the one-bedroom apartments have bedroom widths of 2.4m. In relation to this concern the First Party in their response to the grounds of appeal indicate that they have reviewed the figures for the apartment type of concern, i.e. Type 8 and Type 9.
- 7.5.2. In this regard they note that the standard for their bedroom sizes is above standard despite Type 8 might require a minor adjustment of 25cm to their entrance door and corridor. They note that overall, the size of these apartments at between 60 to 63m<sup>2</sup>

exceed the minimum 45m<sup>2</sup> standard floor area for one-bedroom apartments. Within this figure there is scope for adjustment for the door and corridor width.

- 7.5.3. They contend that this would be a minor adjustment to the one-bedroom apartments where this width issue has been identified and is insubstantial as they form part of an overall scheme whereby the apartment units generally exceed the minimum standards. Alongside the unit mix accords and exceeds the number of larger apartment units.
- 7.5.4. I concur with the First Party in relation to the one-bedroom apartment units where an adjustment of 25cm for their entrance door and corridor is required to meet spatial standards. I also concur with the First Party in that there is ample space within these apartment units through to the interior envelopes of the buildings to make such adjustment without giving rise to any significant changes internally or to their exterior envelopes.
- 7.5.5. I also note that Appendix D of the Sustainable Compact Settlements Guidelines refers to various key indicators of quality urban design and placemaking. Specifically in relation to sustainable and efficient movement to ensure that the public realm is not dominated by parked vehicles.
- 7.5.6. This proposal seeks to provide a strong built edge to the public domain, in particular its junction with Malahide Road/Belmayne providing improvements to the public footpath alongside the eastern boundary of the site. With the required levels of car parking provided at basement level meeting the Development Plan standards. Outside of the access to the basement level, circulation spaces, the modest in overall built form bin and bicycle parking structures the remainder of the site would be landscaped for open space amenity. This would include a dedicated children's play area centrally located on site. This space has a given area of 85m<sup>2</sup>. Additionally, the proposed scheme includes ancillary landscaping of perimeter boundaries of the site. The overall designed hierarchy of buildings and spaces in my considered opinion align with the said Guidelines of achieving quality urban design and placemaking outcomes for this proposed development which would provide an internal qualitative hierarchy of spaces around the building in addition to private amenity and roof terrace open space amenity.

7.5.7. The matter of daylight, sunlight and overshadowing in terms of the qualitative standards of internal and open space amenity for future occupants of this scheme I propose to deal separately under Section 7.7 below.

7.5.8. Conclusion: Overall, I am satisfied that the future residential amenities, both in terms of the private residential amenity but also in terms of communal amenities and facilities within this proposed development accord with local through to national planning provisions. I additionally consider that the community unit, albeit modest in size, together with the proposed outdoor childcare play area subject to appropriate safeguards would positively contribute to the future amenity of occupants of this proposed residential scheme.

## **7.6. Residential Amenity Impact - Properties in the Vicinity**

7.6.1. In relation to residential amenity impacts I firstly refer to the Section 7.3 of the assessment above where I have concluded that the overall design, layout, positioning and height of Block 'A' and 'B' are consistent not only with relevant planning provisions for development on zoned strategic development and regeneration lands. I also concluded that the proposed development is also consistent with the pattern of development within this emerging locality where compact, dense and people intensive residential development has been established and supported as part of the strategic spatial management of these lands under the current and previous local planning provisions.

7.6.2. In the context of the change that has occurred in this locality in recent decades, both existing and yet to be implemented permitted developments, I consider that the appellants property is an outlier. This conclusion is based on the appellants property being an example of low-density residential development on what is a generous garden plots in a setting that is serviced through to highly accessible zoned lands which local through to national planning provisions and guidance seek to support and encourage more compact and dense residential developments, subject to safeguards.

7.6.3. While I accept that the proposed development, if permitted in its modestly reduced nature, scale and extent, would represent a significant departure in height, mass, scale, volume through to people intensive land use in comparison to the appellants property. With the two buildings despite their lateral separation distance of c40m being two significant built insertions within the visual context of the appellants property.

Notwithstanding, I note that the lateral separation distances between the proposed blocks relative to the appellants property as well as any other existing or permitted buildings in the vicinity significantly exceeds the minimum 16m standard set out under SPPR 1 of the Sustainable Compact Settlement Guidelines, albeit this minimum standard relates to opposing first floor windows. With the appellants property being single storey in its overall built form and therefore with no opposing first floor windows facing towards the subject site and in turn the northern elevations of Block 'A' and Block 'B'. It also exceeds the more generous lateral separation of 22m set out under Section 15.9.17 of the Development Plan for opposing first floor windows. With Section 15.9.17 standard reflective of more traditional local standards that predated the Sustainable Compact Settlement Guidelines.

- 7.6.4. I am therefore of the view that the proposed development despite its provision of clear glazed voids on its northern elevations would not give rise to any undue overlooking of the appellants property, including their private amenity space. This is based on the given the lateral separation distances which are generous in such a setting. But also, the presence of dense natural features that provides additional visual screening between any development on the subject site and the appellants private rear amenity space.
- 7.6.5. These factors also reduce any apparent visual incongruity between the proposed development as viewed from the appellants property given that the c40m lateral separation distance would be maintained as a green and blue corridor into the future which demarcates the edge of SDRA 1 zone lands. In this context Block 'A' and Block 'B' would provide visual containment and would merge with the built forms that are positioned to the immediate south of the proposed linear park/riparian strip on the southern banks of the River Mayne. This hierarchy of building to space relationship would also visually harmonise with the development that has occurred on either side of the River Mayne to the east of the site along the boulevard designed route of Belmayne.
- 7.6.6. Further, the site forms part of a setting where a level of overlooking and change is to be expected. In this context and for clarity I note that I am satisfied that the proposed design achieves the minimum required lateral separation distance between opposing windows of existing and the more recently permitted amended design for the 12-storey building on the adjoining 'Site 5'. Moreover, the proposed development would not be

visually at odds or dominant as viewed from these adjoining and neighbouring developments at closer proximity to the south and south west.

- 7.6.7. In this context the design measures together with the site locational context is such that the type of overlooking that would arise is largely in the form of passive surveillance over the existing and proposed hierarchy of buildings as well as spaces. This would be a positive outcome particularly in future should the zoned open space lands to the north become public open space amenity. Through to the active travel routes on either side of the River Mayne be provided.
- 7.6.8. As part of the proposed development qualitative compensatory natural features are also proposed and this together with existing as well as future planting would visually soften the proposed development as viewed from the appellants property and other properties within its visual setting.
- 7.6.9. Having regards to the above I am satisfied that no undue visual and/or residential amenity impact would arise from the proposed development, as revised, on properties in its vicinity. The matter of daylight, sunlight and overshadowing impact of the proposed development which is raised as a concern by the Appellant in their appeal submission to the Board I propose to deal separately under Section 7.7 below.
- 7.6.10. Conclusion: I am satisfied that the proposed development, as revised, would not give rise to any seriously injury to the properties in its vicinity. Nor would it seriously impact the future amenities of any residential development of adjoining and neighbouring lands where there is latent future development potential yet to be realised. In particular Site '5' to the south.

## **7.7. Daylight, Sunlight and Overshadowing Impacts**

- 7.7.1. In terms of daylighting, sun lighting through to overshadowing impact I am satisfied that these types of potential impacts would not be exceptional for their context with this demonstrated by the analysis of these matters provided with this application. It is also further information demonstrated in the First Party's response to the grounds of appeal. With this including a revised daylight, sunlight and overshadowing study which includes examination of potential impacts on existing and yet to be developed lands.
- 7.7.2. This assessment is based on the assessment of potential impacts of the proposed development as revised against the accepted standards set out under BRE – 3<sup>rd</sup>

Edition of BR 209 Site Layout Planning for Daylight and Sunlight; IS EN 17037 Daylight in Buildings (Irish Implementation of European Standards) as amended in 2021; and BS EN 17037 as amended 2021 (Daylight in Buildings – UK Implementation). With this assessment considering the following elements: shadow analysis; sunlight to amenity spaces; sunlight to proposed buildings; sunlight to existing buildings; daylight to existing buildings; daylight to proposed buildings; view out and glare.

- 7.7.3. This assessment shows that there would be minor improvement to the sunlight, daylight and overshadowing impacts when compared to the scheme as originally lodged.
- 7.7.4. It also shows that the level of impact in relation to existing properties in the vicinity of the proposed development would receive similar levels of daylight and sunlight penetration as their current situation on the 21st day of March. It also indicates the Vertical Sky Component would be greater than 27% or no less than 0.8 times their existing situation.
- 7.7.5. In relation to the overall impact arising in terms of daylight, sunlight and overshadowing on the site setting the assessment that is provided included in its considerations the proximity of the scheme to Burnell Green, the Care Choice nursing home and Site 5 would be the most impacted from the proposed development. Notwithstanding, the overall impact was found to be minor and not exceptional for its context.
- 7.7.6. In relation to apartment units within the scheme it considered that the apartments where windows would be impacted by the future development of Site 5 benefit from more than a single aspect and contain amply sized windows. Further the assessment found that the overshadowing arising from the proposed buildings on site and the future redevelopment of Site 5 in terms of the internal open space amenity would result in the communal courtyard area between Block 'A' and Block 'B' achieving at least 2 hours of sunlight over its total area. On this point it notes that this would be in excess of the minimum standards. It also noted that the active spaces within this courtyard including the child play area were centrally located and thus achieved qualitative levels of daylight and sunlight penetration throughout the year.
- 7.7.7. The submitted assessment also tested 72 points on whose window orientation is not north of due east or west in Block 'A' and Block 'B' with reference to BS EN17037. This found that 79% achieved 1.5 hours of sunlight/daylight penetration on the 21<sup>st</sup>



day of March. This they considered to be a high score for an apartment scheme given the density permitted on SDRA 1 zoned lands.

- 7.7.8. Additionally, the assessment examined the daylight study uses Method 2 where regard is had to the Irish/British climate and therefore deemed to be a more accurate representation of likely impact. In this regard Method 2 targets illumination levels which should be achieved over the 95% fraction of the reference plane within a space. It is further noted that the British Standard National Annex refining this target levels for rooms in dwellings and directs under BS EN 17037, 2018+A1-2021, that only the target illuminance or target daylight factor be assessed for rooms including bedrooms, living rooms and kitchens (or combined living/kitchen spaces) on over 50% of the floor area over 50% of the available daylight hours.
- 7.7.9. Having regard to this the assessment examined 163 no. bedrooms and 79 no. living/kitchen/bedroom rooms where a target illuminance of 100Lux and combined living/kitchen/bedroom have also a target of 100Lux. This examination found that 71% of bedrooms and 81% of the living/kitchen/bedroom pass. That is 74% of the rooms assessed passed. With this equating to 29% of bedrooms and 19% of living/kitchen/bedroom failing, i.e. a total of 26% of the rooms assessed. Notwithstanding, when the guidance is applied from the annex of BS EN 17037, i.e. 50% area and 50% of time flexibility, this found that 93% of the bedrooms and 90% of the living/kitchen/bedroom passed. As such 7% of the bedrooms and 10% of the living/kitchen/bedroom failed.
- 7.7.10. Having regard to the findings of the assessments discussed above I am cognisant that Section 6.7 of the Design Standards for New Apartment Guidelines deals with situations where an applicant cannot fully meet the requirements of daylight provisions. In such situations it provides for rationale for any alternatives, compensatory design solutions through to allows for Planning Authority discretion.
- 7.7.11. In this regard the proposed design of this apartment scheme has included more robust compensatory design solutions as part of the changes made in their further information response. In particular the design changes include increased window sizes through to altered internal spatial arrangement of units where less qualitative levels of daylight and sunlight penetration was found.

- 7.7.12. Further, the amended design submitted as part of the further information response included repositioning of Block 'A' and Block 'B'. This also gave rise to improved daylight/sunlight penetration for apartment units overall as well as for the open space amenity provisions. Moreover, not only do the apartment units exceed the minimum spatial standards for their one-, two- and three-bedroom units also there are no single aspect apartment units proposed within this scheme. With all apartments having dual aspect and therefore benefitting from more opportunities to provide daylight/sunlight penetration from different aspects into their interior spaces. This also gives rise to good natural ventilation for the interior spaces of the proposed apartment units.
- 7.7.13. Additionally, Sustainable Compact Settlement Guidelines under Section 5.3.1 and SPPR 1 recognise the role of providing adequate separation distances in part to ensure not only privacy but also adequate levels of daylight and sunlight penetration. With this scheme exceeding the minimum 16m lateral separation distance between opposing windows at first floor level and above. This is also achieved in terms of the lateral separation between the southern elevations of Block 'A' and Block 'B' with the permitted scheme at Site 5, Burnell Green and Care Choice nursing home.
- 7.7.14. I further note that 5.3.7 of the Sustainable Compact Settlement Guidelines on the matter of daylight recognises the importance of the provision of acceptable levels of daylight in new residential developments. This is on the basis of ensuring a high-quality living environment for future residents. These Guidelines also recognises the importance of safeguarding against a detrimental impact on the amenity of other sensitive occupiers of adjacent properties from daylight, sunlight through to overshadowing adverse impacts.
- 7.7.15. These Guidelines further recommend that where a technical assessment of daylight performance is considered by the planning authority to be necessary regard should be had to quantitative performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context. The assessment provided is not based as a whole on these more up to date standards. Notwithstanding, I am satisfied that the proposed development as revised is qualitative in terms of its overall design and layout in that it maximises daylight and sunlight provision alongside while seeking to minimise diminishment of daylight and sunlight to

existing as well as permitted properties in a vicinity where buildings of scale, density and people intensive uses are deemed to be permissible.

- 7.7.16. The proposed development also would not give rise to any undue overshadowing on properties in its vicinity both existing and permitted. For clarity I consider that this is the case for the appellants property due to the lateral separation distance between the site and this property. Alongside having regard to the information set out in the assessments of this impact on file.

## **7.8. Biodiversity/Ecology**

- 7.8.1. I note that this application is accompanied by an Ecological Impact Assessment (EclA) and an Arboricultural Impact Assessment for the proposed development. Both reports consider that the zone of influence of the project will be restricted to the site outline within potential for minor localised impacts on their setting, particularly from the construction phase.
- 7.8.2. The overall surveys that inform the EclA covered the seasons for mammals, flora, fauna and for clarity included a bat assessment. Field surveys were conducted on the 16th day of April, 2023; 23rd day of May, 2023; and the 6th day of June, 2023, as part of determining potential for impacts from the proposed development with consultation also had to the National Parks and Wildlife Service in relation to species and sites of conservation interest.
- 7.8.3. In relation to potential for impact on Natura 2000 sites the findings of the EclA correlate with those of the applicants Appropriate Assessment Screening Report and Natura Impact Statement in relation to the potential for impact on the Baldoyle Bay Special Conservation Area and Special Protection Area as a result of the site's proximity to the River Mayne.
- 7.8.4. The EclA describes the habitat of the site as consisting of:
- 'GS2' – Dry Meadows and Grassy Verges.
  - 'WL2' – Tree Line.
  - 'BL3' Buildings and Artificial Surfaces using the Fossitt Habitat classification.

- 7.8.5. The EclA describes that 'GS2' as the area forming part of the front garden of the vacant house located to the north west of the site that has been left unmanaged. This area also is described as suffering from scrub encroachment from trees and brambles.
- 7.8.6. In relation to the 'WL2' this area of the site is described as the tree line comprising the northern boundary of the site which is further described as an unmanaged and extending towards the River Mayne outside of the site.
- 7.8.7. In relation to 'BL3' area of the site it describes it as relating to buildings and artificial surfaces. With this including the two formerly residential use buildings one of which is partially collapsed with significant water ingress and the other is described as a small brick cottage with some slates missing. Of note the EclA found no evidence of bat roosts in either of these building.
- 7.8.8. In relation to 'ED3' area of the site, this relates to recolonising bare ground where some site clearance works were carried out on site in 2022 on the southern portion of the site and in the intervening time this area has been primarily colonised by a variety of opportunistic plants.
- 7.8.9. In terms of plant species, the EclA indicates that no rare or plant species of conservation value were encountered during surveys. It did however identify the presence of the three-cornered leeks on site. This I note is an invasive plant species under the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. No. 477).
- 7.8.10. In terms of mammals, bat foraging was noted on the site by one species, i.e. Soprano pipistrelle).
- 7.8.11. Additionally, no amphibians were observed on the site nor were there any features on site that would support such species including the common frog.
- 7.8.12. In terms of bird species, during survey the Wren, Robin, Blackbird, Blue Tit, Great Tit, Chaffinch, Jackdaw, Dunnock, Coal Tit and Wood Pigeon were observed on site.
- 7.8.13. The EclA identified the potential impacts for the construction phase as arising from the direct impacts that would arise from the removal of the site's internal habitat. It notes that this would give rise to the loss of the existing habitats would result in the loss of species of low biodiversity importance and their displacement.

- 7.8.14. In relation to this impact, it is described in the EclA as being direct and indirect with a hydrological pathway to Baldoyle Bay via the River Mayne 25m to the north of the site. It therefore notes that mitigation measures would be required to protect the designated Natura 2000 sites in Baldoyle Bay.
- 7.8.15. During construction in relation to surface water it indicates that pollution control and standard measures would be in place to both protect the River Mayne and the marine environment of Baldoyle Bay. It is also noted that pre-construction survey of buildings to be demolished would be required alongside the provision of additional opportunities and control of light spill during construction due to soprano pipistrelle foraging activities at this site. Further, in terms of bird fauna mitigation is also indicated as being needed in the control of site clearance and the provision of compensatory nesting habitat.
- 7.8.16. In relation to Operational Impacts, the EclA describes the site would be a stable ecological environment where appropriate measures should be taken to prevent contamination of surface water run-off and silt into adjacent habitats. It is also noted that new drainage networks would have to comply with relevant standards and as a result the potential for impact would be negligible on habitats as well as species in the surrounding area.
- 7.8.17. The EclA further indicated that the biodiversity of the site would improve as the proposed landscaping matures. Additionally, it considered that the new landscaping would increase flora diversity and there would be the removal of invasive species from the site. However, it notes that there would be a minor loss in foraging habitat area for soprano pipistrelle and there is potential for additional roosting habitat to be provided onsite as part of the mitigation measures.
- 7.8.18. The new buildings are described as consisting of solid materials and would be clearly visible to bird species. It is considered that there would be no potential for any significant collision risk. Notwithstanding, the EclA acknowledges that the increased human activity on the site may reduce the potential for breeding birds to forage.
- 7.8.19. The EclA indicates that standard construction and operational controls will be incorporated into the proposed development. This would therefore minimise the potential for negative impacts on the ecology within the Zone of Influence of the project, biodiversity within and proximate to the site. In this regard Table 8 of the EclA sets out the following sensitive receptors against the potential impacts:

- Biodiversity and the Water course (River Mayne).
- Birds (National Protection); Bats (International Protection).
- Invasive Species.
- Mammals

Therefore, detailed designed-in robust but standard mitigation measures for construction and the operational phases are necessary.

7.8.20. The EclA in relation to cumulative impacts provides an assessment of the potential impacts with permitted within recent times up to when this application was submitted. The oldest planning application being P.A. Ref. No. F19A/0220 which relates to a significant residential development at Belcamp to the north west of the site. The most recent being P.A. Ref. No. F23A/0068 which related to alterations and additions to an existing dwelling house (No. 11 Balgriffin Cottages) to the north of the site. This examination considered that no significant alone or cumulative impacts are likely as a result of the proposed development.

7.8.21. To this list I note that since this planning application has been lodged permission has been granted for alterations to a 12-storey building on the adjoining site to the south (Note: P.A. Ref. No. 4658/23).

7.8.22. I consider that this more recent grant permission alters a previously permitted development in the vicinity of the site. With this site being in a vacant state and at some point, in the recent past been subject to site clearance works and now contains a number of container type structures in proximity to the southern boundary of the subject site. It is nonetheless a brownfield SDRA 1 zoned site with previous to this but not implemented permitted development. It contains no qualitative natural features including in its perimeter boundaries. The habitat it contains correlate with 'BL3' and 'ED3' of the Fossitt Habitat classification which I have described above.

7.8.23. The EclA considered that the construction and operational phase of the proposed development would give rise to no significant effects on the biodiversity and that the residual effects on the biodiversity in terms of the site would be low adverse in terms of the site and not significant short-term impacts.

7.8.24. The EclA concludes that with the implementation of mitigation measures, as and where necessary, the proposed development will result in 'a low adverse/ site/

negative impact / not significant /short term' on the biodiversity and ecology of the area as well as locality.

7.8.25. Upon review I consider the EclA to be comprehensive and robust in terms of surveying of the site. I am however cognisant that since this application was lodged that as discussed above permission has been granted for alterations to the permitted 12-storey building on the adjoining site to the south (Note: Site 5) under P.A. Ref. No. 4658/23. This site is one that is of low to negligible biodiversity value and when considered cumulatively with the proposed development. As well as alongside the examination of approved planning applications in the vicinity of the site as set out under Table 10 of the EclA I am of the view that it would not change the cumulative impacts arising from the proposed development concluded upon in the EclA. I also note that the Arboricultural Impact Assessment survey of the site as discussed in the assessment above does not contradict the findings of the EclA with it also found that the site and its natural features to be of low biodiversity value.

7.8.26. Conclusion: I accept that the proposed development would during construction and operation would give rise to biodiversity impact on the site and its setting, in particular as a result of the site's close proximity to the south of the River Mayne through to an impact on the local bat population who were observed during surveying of this site to use it for foraging.

The site however has been demonstrated to have no key ecological features and outside the presence of bats foraging on the site there are no protected habitats, plants or other mammals at this site.

There are no meaningful direct pathways connecting the proposed development to any Natura 2000 site.

Additionally the proposed development is one that in time, as its landscaping matures, will compensate for the loss of natural features from the site. Alongside the provision of more dense planting of the northern edge will contribute to and add variety to local biodiversity.

I am satisfied that the proposal will not have an adverse impact on biodiversity at the site or in the area. I am also satisfied that the proposed development would not be contrary to Section 10.5.2 of the Development Plan which includes policies and objectives that align with the National Biodiversity Plan. With this including Policy GI34

which seeks to ensure: *“that new development, in terms of siting and design, responds to the character, importance and setting of the city’s rivers where the context allows”* through to Policy GI16 which states: *“that new developments (as appropriate) will be required to support local biodiversity and incorporate biodiversity improvements through urban greening and the use of nature-based infrastructural solutions that are of particular relevance and benefit in an urban context”*.

I am also satisfied that the impact to the local bat population as set out in the EclA can be appropriately managed by way of site appropriate mitigation measures through to clearing of the site can also be a matter that is appropriately dealt with as part of an agreed Demolition and Construction Management Plan prior to the commencement of any works on the site.

Should the Board be minded to grant permission I recommend that it require by way of condition the implementation of the mitigation measures in the various biodiversity related reports submitted with this application. Subject to these measures and other mitigation measures set out in other accompanying documentation with this application including but not limited to the Arboricultural Report and the Preliminary Construction Method Statement & Construction & Demolition Waste Management Plan.

#### **7.9. Childcare Facilities:**

- 7.9.1. The Appellant raises concerns in relation to the lack of childcare facilities within this scheme and within the setting to accommodate the additional demands the proposed development would place on such existing facilities which are contended to be at capacity. However, as revised contains the proposed scheme now contains 72 apartment units. As such there is no local through to national planning provision requiring the provision within it for a childcare facility as this number of units falls below the requirement to provide such facilities as part of a residential scheme.
- 7.9.2. On this point I note that the Childcare Facilities, Guidelines for Planning Authorities, 2001, recommends the provision of a childcare facility to be provided for schemes of 75 dwellings.
- 7.9.3. This I note is reiterated under Section 15.8.4 of the Development Plan which states that the City Council shall: *“seeks to ensure that an adequate number of childcare facilities are provided to serve the city’s growing population. In order to meet this*



*objective, one childcare facility (equivalent to a minimum of 20 child spaces) for every 75 dwellings units, shall be provided in all new mixed use and residential schemes”.*

- 7.9.4. It is also of note that the scheme as lodged included a small childcare facility which the Planning Authority by way of its further information questioned its viability. I am of the view that the Board would have raised similar concerns given that it is often difficult for private operators to operate a commercially viable facility from a smaller in internal footprint floor area units. With the proposed scheme as lodged having a childcare facility with a floor area of Note: 135.8m<sup>2</sup>. It is not uncommon for childcare facilities of similar sizes to put forward as part of a case for a material change of use to make a case that they are not economically viable even in locations where it would appear that there is an urban/suburban residential population.
- 7.9.5. The First Party in their response to the grounds of appeal note in relation to the childcare facility and places concerns raised by the Appellant contend that there are a number of recently schemes permitted developments which include additional childcare facilities increasing the number of available spaces within this locality. They also provide an examination of the childcare facilities within this growing in residential population area.
- 7.9.6. In this case I am satisfied there is no requirement for the provision of a childcare facility as part of the proposed scheme as revised and that the community unit provided in part in its place would add to community infrastructure for residents within this scheme as well as would be flexible and adaptable for a variety of land use purposes. Further, I am not satisfied on the basis of the information provided by the Appellant that the proposed scheme which I acknowledge contains 30 three bedroom apartment units as part of its dwelling mix of 72 dwelling units would result in any exceptional demand on childcare places within its vicinity. Moreover, within the revised design and layout there is a proposal for a 85m<sup>2</sup> childcare outdoor play area and in time this scheme will address public open space in the form of the linear park/riprarian strip with active travel routes. Overall providing qualitative future amenities within the scheme commensurate with the nature, scale and type of residential development sought.
- 7.9.7. Conclusion: I am satisfied that the proposed development, as revised, does not warrant refusal on the basis of lack of childcare facility of that the nature, scale and

type of residential development sought would, if permitted, give rise to an undue demand on existing and future childcare facilities in this locality.

## **8.0 Appropriate Assessment Screening**

### **8.1. Stage 1 – Screening Determination for Appropriate Assessment**

- 8.1.1. Having carried out Appropriate Assessment screening (Stage 1) in accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, it has been determined that the proposed development as revised (See: Section 2 of this report above), may have likely significant effects on Baldoyle Bay SAC and Baldoyle Bay SPA. This is on the basis of its potential to give rise to downstream impacts during construction and operation via the Mayne River which lies c22 to 25m from the northern boundary of the site, because it cannot be excluded on the basis of best objective scientific information, in the absence of control or mitigation measures, following screening that the plan or project, individually and/or in combination with other plans or projects, will have a significant effect on these named Natura 2000 sites, in view of their conservation objectives and qualifying interests. Therefore, an Appropriate Assessment (Stage 2) is required of the implications of the project, alone and in combination with other plans/projects, on the qualifying interests of these identified Natura 2000 sites in light of their conservation objectives.

### **8.2. Stage 2 Stage 2 – Appropriate Assessment**

- 8.2.1. In carrying out an Appropriate Assessment (Stage 2) of the project, I have assessed the implications of the project on Baldoyle Bay SAC and Baldoyle Bay SPA in view of their conservation objectives. I have had regard to the applicant's Natura Impact Statement and all other relevant documentation and submissions on the case file. I consider that the information included in the case file is adequate to allow the Board to carry out of an Appropriate Assessment.
- 8.2.2. Following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually and/ or in-combination with other plans or projects would not adversely affect the integrity of Baldoyle Bay SAC and Baldoyle Bay SPA in view of the sites' conservation objectives and qualifying interests.

8.2.3. This conclusion is based on:

- An assessment of all aspects of the project including proposed mitigation measures in relation to the conservation objectives of Baldoyle Bay SAC and Baldoyle Bay SPA.
- An assessment of in-combination effects with other plans and projects including historical and current plans and projects.

8.3. There being no reasonable scientific doubt as to the absence of adverse effects on the integrity of Baldoyle Bay SAC and Baldoyle Bay SPA.

## **9.0 Environmental Impact Assessment**

### **9.1. Screening for Environmental Impact Assessment**

9.1.1. I refer to Section 2 of the report above which sets out a description of the project in detail.

9.1.2. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations), and section 172(1)(a) of the Planning and Development Act 2000, as amended, (2000 Act), identify classes of development with specified thresholds for which Environmental Impact Assessment (EIA) is required.

9.1.3. Having regard to these provisions I identify the following classes of development in the 2001 Regulations as being of relevance to the proposed development sought under this application:

- Class 10(b) – this relates to infrastructure projects that involve:
  - (i) Construction of more than 500 dwelling units,
  - (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Class 14 relates to works of demolition carried out in order to facilitate a project listed in Part 2 of Schedule 5 where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7 of the Regulations.

- Class 15 of Schedule 5 relates to any project listed in Part 2 of Schedule 5 which does not exceed a quantity, area or other limit specified in Part 2 in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

- 9.1.4. The proposed development is sub-threshold in terms of mandatory EIA requirements arising from Class 10(b)(i) and/ or (iv) of the 2001 Regulations. In respect of the latter, 'business district' is defined as a district within a city or town in which the predominant land use is retail or commercial use. I do not consider that the appeal site (with a site area of c0.4235ha) comes within this definition and is instead another part of a built-up area where the 10ha threshold applies. In respect of Class 14 I am of the view that the demolition works associated with facilitating the proposed development is modest totalling 154.8m<sup>2</sup> and given their built forms as well as manner of construction would not involve works that would be likely to have significant effects on the environment.
- 9.1.5. In relation to Class 15(b), the criteria in Schedule 7 of the 2001 Regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment and should be the subject of EIA. The criteria include the characteristics of the project, the location of the site, and any other factors that would give rise to an environmental impact.
- 9.1.6. The site is an urban brownfield site that contains two unoccupied dwelling house that is Zoned Z14 – Strategic Development & Regeneration Area (SDRA1 – Clongriffin/Belmayne) and within the Key Urban Village of Malahide Road under the Dublin City Development Plan, 2022-2028. An Environmental Impact Assessment (EIA) Screening Report was not submitted with the application. The Planning Authority in their determination of this application carried out an EIA screening and considered that having regard to the nature and scale of the proposed development, which consists of the construction of the apartment scheme in a serviced location, that there is no real likelihood of significant effects on the environment arising from the proposed development. They further considered that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.
- 9.1.7. The site does not support substantive habitats or species of conservation significance outside of the presence of foraging bats. This is supported by the Ecological Impact

Assessment and Arboricultural Reports submitted with the application with the findings of these assessments is set out in Section 7.8 of this report above. The main habitats within the proposed project site comprise existing buildings, artificial surfaces, hedgerow/treeline and former green spaces associated with the former use of the sites as accommodating two detached dwelling houses. The site also contains recolonising bare ground and spoil. No rare or protected species of flora were identified during the ecological field surveys. No non-native species of flora were identified during the ecological field surveys, however, the three-cornered leek an invasive species was identified to be present on this site. The site surveying observed the presence of bat foraging but no roosts were identified and during site surveying several common bird species were recorded.

- 9.1.8. There will be permanent loss of most vegetation on site. However, where perimeter trees and hedgerows are to be lost these for the most part are not considered to be of high value with compensatory planting proposed. However, the overall loss and changes arising from the proposed development would give rise to an impact on the local population foraging/commuting. Subject to the implementation of the additional landscaping proposed and mitigation measures as outlined in the Ecological impact Assessment report as well as the Arboricultural Reports the impact on the local bat population is not considered to be significant. The measures include qualitative compensatory planting through to protection measures for the natural features to be retained on site as well as the dense linear belt of trees/hedgerows bounding the northern edge of the site outside of the redline area. The invasive species recorded during the site survey at the proposed site would be removed in a manner that accords with best practices.
- 9.1.9. Connectivity of the site with protected areas and their associated qualifying interest species is considered further below in Appendix 1 of this report. The nature and the size of the proposed development alongside this existing development remains below the applicable thresholds for EIA.
- 9.1.10. Having regard to the location of the proposed development, the environmental sensitivity of the geographical area despite the site being situated to the north of the Mayne River corridor, the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment.

9.1.11. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. For clarity I note that an EIA - Preliminary Examination form has been completed, and this concludes a screening determination is not required in this case. Further this conclusion is based on the following:

- a) The nature and scale of the project, which as lodged, and as revised, is significantly below the thresholds in respect of Class 10(b)(i) & (iv); Class 14 & Class 15 of the Planning & Development Regulations 2001, as amended.
- b) The location of the site on zoned serviced strategic development and regeneration lands as well as other relevant policies and objectives in the Dublin City Development Plan, 2022-2028, and the results of the Strategic Environmental Assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).
- c) The brownfield nature of the site with the residential dwelling located in the north western portion of the site served by public services and infrastructure up to recent times. The brownfield setting of the site in a rapidly changing suburban landscape which includes similar permitted and implemented developments in its immediate vicinity.
- d) The planning history of the setting and the pattern existing as well as permitted development.
- e) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations, 2001, as amended and the absence of any potential impacts on such locations.
- f) The lateral separation of this established residential use site relative to the River Mayne and the footprint of buildings being located outside of lands deemed at risk of flooding.

- g) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government, (2003).
- h) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- i) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the outline Construction Management Plan, Ecological Impact Assessment, Appropriate Assessment & Natura Impact Statement, Tree Protection Plan, Arboricultural Report, Engineering Drainage Report, Flood Risk Assessment, Preliminary Construction & Demolition Waste Management, Noise Impact Assessment, Basement Impact Assessment, Arboricultural Impact Assessment/Tree Survey and Archaeological Impact Assessment.
- j) The criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended.

## 10.0 Recommendation

10.1. I recommend that permission is **granted** for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

11.1. Having regard to the ‘Z14 – Strategic Development and Regeneration Area’ (SDRA 1) zoning objective pertaining to the site under the Dublin City Development Plan, 2022-2028, which seeks social, economic and physical development and/or regeneration of these lands with mixed-use, of which residential would be the predominant use; the local through to national planning provisions as well as guidance which in a consistent manner support the redevelopment of brownfield, vacant and underutilised sites; the subject site’s proximity to public transport as well as other amenities and services; the

pattern of development existing and permitted in the vicinity of the site; through to relevant local, regional and national planning provisions as well as guidance; it is considered that subject to compliance with conditions below, the proposed development would be acceptable in terms of design, height, layout and scale of development in this accessible urban location and that it would not adversely affect the visual amenity of the area or seriously injure the residential amenities of properties in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 28<sup>th</sup> day of February, 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The development hereby approved comprises 72 no. apartments in total consisting of 19 no. one bed units, 23 no. two bed units and 30 no. three bed units.

**Reason:** To clarify the number of units hereby approved.

3. Details of the operation and management of the ground floor community/cultural space hereby approved, shall be submitted to the planning authority for written approval prior to commencement of development. The space shall be fully fitted out and ready for occupation and immediate use prior to the first occupation of the residential units hereby approved.



**Reason:** To clarify the scope and use of this space in the interest of residential amenities.

4. (a) The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which was received by the planning authority on the 28<sup>th</sup> day of February, 2024, unless otherwise agreed in writing with, the planning authority prior to commencement of development.
- (b) The communal terraces to the private terraces shall also be fully landscaped and access provided from the relevant apartments. Details of same shall be submitted to the Planning Authority prior to the commencement of development on site.
- (c) Full details of the management, landscaping and fit out (including suitable outdoor seating) of the roof terraces of Block A and B hereby approved shall be submitted to the Planning Authority for written agreement prior to the commencement of development on site. Both terraces shall be fully completed and ready for immediate use by residents of both blocks prior to the first occupation of residential units hereby approved.

**Reason:** To ensure a high standard of residential amenity for future residents of the scheme.

5. Mitigation and monitoring measures outlined in the plans and particulars, including the Visual Impact Assessment, Housing Quality Assessment, Building Lifecycle Report, Operational Waste Management Plan, Traffic and Transportation Assessment which includes Mobility Management Plan, Travel Plan and Road Safety Audit, Landscape Plan, Engineering Services Report, outline Construction Management Plan, Preliminary Construction Method Statement & Construction & Demolition Waste Management Plan, Basement Impact Assessment, Outdoor Lighting Plan, Climate Action & Energy Statement, Inward Noise Impact Assessment, Ecological Impact Assessment, Flood Risk Assessment, Outline Construction Environmental Plan, Appropriate Assessment Screening & Natura Impact Statement, Arboricultural Report and Tree Constraints Plan/Tree Impacts Plan & Tree Protection Plan submitted with

this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

6. The building shall be provided with noise insulation measures in accordance with Technical Guidance Document E, Building Regulations 2014, having regard to the location of the site within Noise Zone C of Dublin Airport.

**Reason:** To ensure appropriate internal noise levels of habitable rooms in accordance with Dublin City Development Plan 2022 - 2028 Policy SI40.

7. All mitigation measures in relation to archaeology as set out in the Archaeological Impact Assessment included in application documents shall be implemented in full. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/ excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

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

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

9. Prior to the commencement of development, a final Construction Environmental Management Plan (CEMP) shall be prepared and submitted to the planning authority for written agreement. The CEMP shall incorporate details for the

following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

10. Prior to the commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects' (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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

11.
  - a) An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development, the provision of facilities for the storage, separation, and collection of the waste 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 OWMP.
  - b) The OWMP shall provide for screened communal bin stores for the apartment blocks and community/cultural space, the locations and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage for the proposed development.

12. (a) Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Details of a maintenance strategy for all external finishes within the proposed development shall be submitted for the written agreement of the planning authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

13. External lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes, access ramp, open spaces within the scheme and it shall take account of trees within a finalised agreed Landscape Masterplan and Planting Schedule. It shall also include appropriate mitigating to ensure no adverse effect on the foraging activities of the local bat population. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

14. The developer shall comply with the detailed requirements of Transportation Planning Division and the Noise & Air Pollution Section of Dublin City Council.

**Reason:** To ensure a satisfactory standard of development in the interest of noise protection with the site being located within 'Noise Zone C' relative to Dublin Airport, pedestrian and traffic safety.

15. The developer shall comply with the detailed requirements of Parks, Biodiversity and Landscape Services division of Dublin City Council.

**Reason:** In the interests of biodiversity, ecology and protection.

16. a) The developer shall enter into water and/ or wastewater connection agreement(s) with Uisce Eireann, prior to commencement of development.

b) All development shall be carried out in compliance with Uisce Eireann codes and practices.

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

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

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

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

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

19. 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.

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

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

21. a) Prior to commencement of development, proposals for a development name and numbering scheme, and associated signage shall be submitted to and agreed in writing with the planning authority. Thereafter, all such names and

numbering shall be provided in accordance with the agreed scheme. b) The development name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/ marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

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

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

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

**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.

24. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in

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

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

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may

facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Advisory Note:

The developer is advised that Section 34(13) of Planning and Development Act, 2000 (as amended) states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.

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

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Patricia M. Young

Planning Inspector - 11<sup>th</sup> day of March, 2025.



## Appendix 1: Appropriate Assessment: Stage1 and Stage 2

### Appropriate Assessment Stage 1 – Screening Determination

#### STEP 1: Description of the Project

I have considered the proposed residential development in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended).

#### Subject Site

As described under Section 1 of this report provides a description of the subject site and its setting.

In summary the subject irregular rectangular shaped site comprises of the two vacant plots of No.s 1 & 2 Hawthorne Cottages with a combined area of 4,235m<sup>2</sup>. The site's eastern most boundary addresses the junction of Malahide Road/Belmayne. It forms part of larger parcel of lands zoned Strategic Development Regeneration Area (SDRA 1 – Clongriffin/Balmaine and Environs) and are located in close proximity to the north of its Key Urban Village of Malahide Road (Clarehall /Northern Cross) under the Dublin City Development Plan, 2022-2028. The site is also located between c22m to 25m to the south of the bank of the River Mayne. This river discharges downstream to Baldoyle Bay.

The site has a brownfield character and due to its lack of functional use in recent years significant parts of the site have an overgrown greenfield character that contain grass and scrub. The site boundaries contain dense trees and hedge planting. They are particularly robust along the northern boundary of the site and bounding greenfield land to the north and east of the site.

Overall, the site is relatively flat in topography, with ground levels to the north of the site gradually sloping with a north east and south west direction.

To the north of the site the River Mayne is culverted under Malahide Road and there appears to be a rise in the topographical levels to the north of this watercourse.

#### Proposed Development

The proposed development as lodged is set out under Section 2 of this report.

It can be summarised as consisting of demolition of existing derelict residential dwellings on site to facilitate the construction of two predominantly in multi-unit residential blocks. The scheme as lodged contained 79 apartment units, but this number was reduced to 72 in the amended design submitted by the applicant as part of their further information response (Note: received by the Planning Authority on the 28<sup>th</sup> day of February, 2024). The scheme as revised is the assessment carried out in the main assessment above is based on the basis of the qualitative improvements it contains through to the improved clarity provided on a number of planning matters that were raised as concerns by the Planning Authority. These concerns were reasonable and with basis having regard to the proper planning and sustainable development of the area.

In this regard I note that Block 'A' is a 6 to 8 storey block which replaces a creche with a modest in size community unit. This block is positioned towards the eastern portion of the site with basement level car parking underneath. It contains 23 no. 2 bedroom and 12 no. one bedroom apartment units. Block 'B' is positioned towards the western side of the block and is residential in its function with basement level car parking provision. It is a 7 to 8 storey building containing 30 no. 3 bedroom and

7 no. one bedroom apartment units. These building blocks are also positioned a further 2m away from the banks of the River Mayne. The basement contains 54 car parking spaces, and the scheme contains 194 bicycle parking spaces. A children's play area is centrally positioned within a communal open space courtyard located between Block 'A' and Block 'B'.

Also included is a new vehicular, pedestrian, and cyclist access point onto the Malahide Road as well as amendments to the adjoining Malahide Road/Belmayne junction, internal access roads/basement ramp and footpaths, motorcycle parking spaces, disabled parking spaces, refuse storage facilities, public lighting, electrical services, a hierarchy of open spaces, hard and soft landscaping, boundary treatments, and all infrastructural works associated with water supply, wastewater drainage, surface water drainage (including connections to the public networks, SuDS features, and on-site attenuation storage).

In relation to surface water drainage, as said there is a slight north-east to south-west slope in the amalgamated plots of No.s 1 & 2 Hawthorne Cottages. An existing 900mm diameter gravity surface water sewer is located to the west of the site. This discharges to the Mayne River to the north of the site. It indicates that there is no record of a surface water sewer on Malahide Road fronting the site and it is proposed to provide two surface water drainage runs around the perimeter of the rear of the apartment blocks. Both discharging to a final man hole in the north-eastern corner of the site on Malahide Road. Additionally, a new 25m surface water sewer is proposed crossing the Malahide Road and discharging into the Mayne River downstream of the existing bridge. Additional SuDS measures are proposed in accordance with best practices. With this including but not limited to use sustainable urban drainage measures to manage storm water run-off, a mix of sedum green roof and roof gardens.

In relation to foul drainage, it is proposed to lay a 225mm diameter gravity foul drain around the perimeter of the apartment blocks. These drains would culminate at a final manhole within the south-eastern boundary of the site and from this point discharge to the existing 1350mm concrete foul sewer on Malahide Road.

In relation to the basement, it is proposed that excavation works will require the provision of some temporary shoring particular to the northern and southern boundaries to a depth of c4.0 mbgl. No significant groundwater is expected to ingress to the excavation works that localised dewatering of the subsoils will be required to address perched groundwater. No bedrock was encountered during the ground investigations, and it is considered that the regional bedrock aquifer would not be affected subject to standard control measures.

In relation flood risk, the assessment of this matter indicates that there are no historic incidents of flooding recorded on this site. However, it is noted that the Fingal FRAM study shows that the River Mayne overtops its right bank during the 1% AEP and the 0.1% AEP event. Therefore, a hydraulic model has been developed for the Mayne River to estimate the flood risk to the site.

This model shows what the site is predominantly composed of Flood Zone C lands with part of the north eastern boundary within Flood Zone A and B lands with this including the location of the proposed entrance onto Malahide Road. A design scenario was also tested against this model which included the provision of an additional wall as well as raised ramp. These changes resulted in all the site being located within Flood Zone C without increasing the risk to flooding within the site setting.

Additionally, the site has been subject to a Justification Test which demonstrates the proposed developments appropriateness for this site. The risk to the site can be managed by raising floor levels to the proposed level of 20.30mOD which will provide sufficient freeboard above the 1% fluvial flood level (including climate change) and a 150mm freeboard above the hardstanding area thus protecting against fluvial flooding.

#### **Submissions and Observations**

Two Third-Party submissions on the application were made to the Planning Authority raising concerns that included impact of proposed development on the Biodiversity of the River Mayne.

No response was received by Uisce Eireann in relation to the water supply and wastewater.

Additionally, the Planning Authority's interdepartmental reports where water supply and wastewater related matters were considered raised no substantive concerns or capacity issues subject to standard safeguards.

There is capacity in the public network to cater for surface water discharging from the project.

The Planning Authority completed an appropriate assessment of the project. The applicant's NIS was relied upon, and its conclusion was concurred with.

## STEP 2: Potential Impact Mechanisms from the Project

### Site Surveys

Site surveys and documentation provided with this application confirm that the site is not under any wildlife or conservation designation. Potential impact mechanisms from the project Site Surveys Site surveys confirm the site is not under any wildlife or conservation designation. With the surveys covering the appropriate seasons for mammals, flora, fauna and bat assessment. The site using the Fossitt Habitat classification is described as being comprised of:

- *GS2 – Dry Meadows and Grassy Verge.* With this forming part of the front garden of the house to the north west that has been left unmanaged. Within this area it is noted that the area suffers from scrub encroachment from trees and brambles.
- *WL2 – Tree Line,* again using the Fossitt Habitats classification. With this comprising of northern boundary of the site which is described as forming part of an unmanaged tree line that extends towards the River Mayne outside of the site. The tree line and hedge row within the site are described as being unmanaged.
- *BL3 – Buildings and Artificial Surfaces.* With this described as two buildings one of which is partially collapsed with significant water ingress and the other is described as a small brick cottage with some slates missing. No bat roosts were detected in either building.
- *ED3 – Recolonising Bare Ground.* In relation to this habitat, it is noted that some site clearance works were carried out on site in 2022 on the southern portion of the site and in the intervening time this area has been primarily colonised by a variety of opportunistic plant. The species noted include the invasive three-cornered leek.

The evaluation of habitat is described as grass land, artificial surfaces and tree lines including the two cottages with no habitats of conservation interest. Additionally, no rare and threatened species of plants were recorded and the three corner leek (*Allium triquetrum*) is listed on the Third Schedule of European Communities (Birds and Natural Habitats) Regulations, 2011 (S.I. No. 477 of 2011). No rare or protected species (mammal or amphibians) were recorded and the bird species seen on site were of local interest consisting of a variety of common bird species. In short, the site is determined to have no key ecological receptors and no evidence of habitats or species with links to Natura 2000 sites, including bird species. The overall species diversity was deemed low.

This was further supported by the Arboricultural Survey conducted on the site in relation to tree species.

### Natura 2000 Sites

Table 1 lists the qualifying interests (QIs)/special conservation interests (SCIs) and the conservation objectives for all Natura 2000 sites within a geographical radius of 15km. It also identifies in Table 1 hydrological / biodiversity connection between the site and the Natura 2000 sites listed. In this regard the said table sets out the following 17 No. Natura 2000 sites as having no direct hydrological/biodiversity connection to the site and provides their lateral separation distances:

### Special Areas of Conservation

Baldoyle Bay SAC (Site Code: 000199) is 2.3km

North Dublin Bay (Site Code: 000206) is 3.3km

Malahide Estuary SAC (Site Code: 000205) is 4.7km

Howth Head SAC (Site Code: 000202) is 6.5km  
Irelands Eye SAC (Site Code: 002193) is 7.1km  
Rockabill to Dalkey Island SAC (Site Code: 003000) is 7.1km  
South Dublin Bay SAC (Site Code: 000210) is 7.3km  
Rogerstown Estuary SAC (Site Code: 000208) is 10km  
Lambay Island SAC (Site Code: 000204) is 13.1km

#### ***Special Protection Areas***

Baldoyle Bay SPA (Site Code: 004016) is 2.6km  
North Bull Island SPA (Site Code: 004006) is 3.3km  
Malahide Estuary SPA (Site Code: 004025) is 5.2km  
Irelands Eye SPA (Site Code: 004117) is 6.9km  
South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) is 7.4km  
Howth Head Coast SPA (Site Code: 004113) is 8.3km  
Rogerstown Estuary SPA (Site Code: 0041015) is 10.1km  
Lambay Island SPA (Site Code: 004069) is 13km

Table 2 of the report provides an initial screening of the above Natura 2000 sites, in light of their conservation objectives and qualifying interests, concluding whether or not there is potential for hydrological connection to the proposed development.

This examination screened out 15 of the aforementioned Natura 2000 sites to have no direct and/or negligible indirect pathway to or connection with the site. In this regard the report concluded upon examination that there are no protected habitats or species identified at the site and therefore the likelihood of any significant effect of the project on any Natura 2000 site due to loss of habitat and/or disturbance of species can be reasonably excluded in relation to the sites screen out. It also found that the screened-out Natura 2000 sites were outside of the projects zone of influence with groundwater-dependent QIs/ SCIs. Therefore, the likelihood of any significant effect of the project on groundwater due to pollution or spillage can be reasonably excluded. There is no hydrological connection between the project and any Natura 2000 site arising from wastewater. As well as the site was remote from any *ex-situ* feeding site for hosting any SPA QI's. Therefore, it was considered that the likelihood of any significant effect on QIs/SCIs can be reasonably excluded.

The AASR screened in the Baldoyle Bay SAC and Baldoyle SPA.

This was on the basis of the potential impacts arising during construction and operational phases of the proposed development on the conservation interests of these two sites.

In relation to the Baldoyle SAC it considered there was an indirect hydrological pathway via dust and storm/surface water contamination during the construction phase given the proximity of the proposed development to the River Mayne at c25m.

As such the AASR considered that there is potential for downstream impacts during construction phase. During the operation phase the foul wastewater from the site will discharge into the foul sewer on Malahide Road before being treated at Malahide Wastewater Treatment Plan. It is also noted that surface water drainage will discharge to the existing surface water sewer on Malahide Road before discharging to the River Mayne and ultimately to Baldoyle estuary. It is also considered that there is potential for contaminants during the construction and operation to give rise to downstream impacts on the Baldoyle Bay SAC given the proximity of the proposed development to the River Mayne. As such in the absence of mitigation measures, it is considered that significant effects on the qualifying interests of this SAC are likely.

In relation to the Baldoyle SPA the AASR considered that the maximum likely disturbance that will impact the qualifying interests of this Natura 2000 site is 300m having regard to Cutts *et al.*, 2013. It also considered that the site consists of recolonised bare ground which includes unmanaged grasslands, existing built land and enclosed by tall treelines as well as hedgerows. These are not habitats that are utilised as foraging habitats for wintering birds that are qualifying interests of this SPA in Baldoyle Bay and/or the marine environment beyond. Notwithstanding, the AASR considered that there is an indirect pathway to this SPA via dust, storm & ground water drainage in the absence of mitigation there is potential for dust, contaminated storm water runoff, and contaminated ground

water runoff to enter the watercourses located proximate to the subject site. In turn the AASR considered that there was potential for the proposed development to give rise to significant impact on the qualifying interests of this SPA. Additionally, the report notes that the foul wastewater from the site would discharge to the existing foul sewer on Malahide Road. With this treated at Malahide Wastewater Treatment Plan prior to discharging into Baldoyle Bay.

Also, the AASR noted that surface water drainage would discharge to the existing surface water sewer on Malahide Road before discharging to the River Mayne. As such it considered that during construction there is potential for pollutants to enter the River Mayne located 25m to the north of the site and thus potential for downstream impacts during this phase. The AASR further considered that there is also potential for contamination to arise during operation of the proposed development via surface water contamination. In the absence of mitigation measures, the AASR considered that significant effects on the qualifying interests of this SPA are likely.

### **Natura 2000 Sites at Risk**

The Appropriate Assessment Screening Report (AASR) identifies the following two Natura 2000 sites in the zone of influence at potential risk from the proposed project either alone or in combination:

- **Baldoyle Bay SAC (Site Code: 000199)**
- **Baldoyle Bay SPA (Site Code: 004016)**

I concur with these findings. With my conclusion having regard to the fact that the list of Natura 2000 sites identified in the AASR not including the North West Irish Sea SPA (Site Code: 004236). I note that this Natura 2000 site was designated after the lodgement of this subject planning application.

I note to the Board that this SPA is located c4.2km at its nearest point to the site as the bird would fly. I am satisfied that despite the assessment not including the North West Irish Sea SPA that having regard to its lateral separation distance together with its QI's/SCI's it would not have changed the conclusion in terms of the potential impact of the proposed development during construction and operational phases on the conservation interests of Natura 2000 sites given that it is significantly beyond the zone of influence of this project and with no meaningful direct or indirect connectivity. However, as a precaution I have included it in Table 1 below.

In this table I have set out the Conservation Interests and Qualifying Interests of Baldoyle Bay SAC and SPA as well as the North West Irish Sea SPA.

In relation to the North West Irish Sea SPA, I note that like Baldoyle SPA it is an important resource for marine birds. This SPA extends offshore along the coasts of counties Louth, Meath, and Dublin, and is approximately 2,333km<sup>2</sup> in area. This Natura 2000 site is ecologically connected to several existing SPAs providing supporting habitat for foraging and other maintenance behaviours for seabirds that breed at colonies on the north-west Irish Sea's islands and coastal headlands. Alongside for seabirds outside of the breeding period also. The North West Irish Sea SPA is designated for twenty-one marine bird species including non-breeding and breeding populations.

The non-breeding species for the North-West Irish Sea SPA include Red throated Diver, Great northern Diver, Common Scoter, Black headed gull, common Gull Great Black-backed Gull, and Little Gull. Breeding seabirds include: Fulmar, Manx Shearwater, Cormorant, Shag, Lesser Black-backed Gull, Herring Gull, Kittiwake, Roseate Tern, Common Tern, Artic Tern, Little Tern, Guillemot, Razorbill, Puffin. Conservation objectives to main or restore favourable conservation condition for its Qualifying Interest species.

**Table 1**

Natura 2000 site name	Site Code	Distance from Site
<b>Baldoyle Bay SAC</b>	000199	2.3km
<b><i>Conservation Objective:</i></b>		

<p><i>To maintain the favourable conservation condition of...</i></p> <p><b>Qualifying Interests:</b></p> <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows [1330]</li> <li>• Mediterranean salt meadows [1410]</li> </ul>		
<p><b>Baldoyle SPA</b></p> <p><b>Conservation Objective:</b></p> <p><i>To restore the favourable conservation condition of....</i></p> <p><b>Qualifying Interests:</b></p> <ul style="list-style-type: none"> <li>• Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>• Shelduck (<i>Tadorna tadorna</i>) [A048]</li> <li>• Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</li> <li>• Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>• Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> <li>• Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>	004016	2.6km
<p><b>North West Irish Sea SPA</b></p> <p><b>Conservation Objective:</b></p> <p>To restore the favourable conservation condition of....</p> <p><b>Qualifying Interests:</b></p> <ul style="list-style-type: none"> <li>• Red-throated Diver (<i>Gavia stellata</i>) [A001]</li> <li>• Great Northern Diver (<i>Gavia immer</i>) [A003]</li> <li>• Fulmar (<i>Fulmarus glacialis</i>) [A009]</li> <li>• Manx Shearwater (<i>Puffinus puffinus</i>) [A013]</li> </ul>	004236	c4.2km



<ul style="list-style-type: none"> <li>• Cormorant (<i>Phalacrocorax carbo</i>) [A017]</li> <li>• Shag (<i>Phalacrocorax aristotelis</i>) [A018]</li> <li>• Common Scoter (<i>Melanitta nigra</i>) [A065]</li> <li>• Little Gull (<i>Larus minutus</i>) [A177]</li> <li>• Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>• Common Gull (<i>Larus canus</i>) [A182]</li> <li>• Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</li> <li>• Herring Gull (<i>Larus argentatus</i>) [A184]</li> <li>• Great Black-backed Gull (<i>Larus marinus</i>) [A187]</li> <li>• Kittiwake (<i>Rissa tridactyla</i>) [A188]</li> <li>• Roseate Tern (<i>Sterna dougallii</i>) [A192]</li> <li>• Common Tern (<i>Sterna hirundo</i>) [A193]</li> <li>• Arctic Tern (<i>Sterna paradisaea</i>) [A194]</li> <li>• Little Tern (<i>Sterna albifrons</i>) [A195]</li> <li>• Guillemot (<i>Uria aalge</i>) [A199]</li> <li>• Razorbill (<i>Alca torda</i>) [A200]</li> <li>• Puffin (<i>Fratercula arctica</i>) [A204]</li> </ul>		
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### Step 3: Natura 2000 site(s) Potentially at Risk

In determining the potential impact mechanisms arising from the project on the above identified Natura 2000 sites (Note: Table 1), I have had regard to the AASR and all other relevant information on the case file. I note and find the following:

- There are no protected habitats or species identified at the site and therefore the likelihood of any significant effect of the project on any Natura 2000 site due to loss of habitat and/ or disturbance of species can be reasonably excluded.
- In relation to habitat loss or alteration and habitat/species fragmentation the site is not adjacent to any Natura 2000 site and therefore it will not result in any direct loss of, or impact on, habitats in such sites, during construction and operational phases of the proposed development.
- The distances between the subject site and the Natura 2000 sites via indirect hydrological pathways of River Mayne despite the sites proximity c25m to the south of this watercourse.
- Site demolition, general site clearance, excavation for basement level and construction activities pose a potential risk to surface water/ groundwater quality due to contamination. However, there is no evidence of vulnerable groundwater conditions despite the proximity of the site c25m to the south of the banks of the River Mayne.

- The high probability that a pollution event at and/ or pollution from the construction site would be minimal in significance and/or quantity.
- The potential risk to Natura 2000 sites identified at risk is via contamination of a surface water pathway (and, as applicable, groundwater at site) and this is likelihood is considered to be extremely low and the effect of same is assessed to likely be imperceptible given the distance between the site and these sites.
- The development works will be managed and implemented in line with the outline CEMP, which includes standardised pollution prevention and surface water control measures.
- Indirect hydrological connections exist between the project and coastal Natura 2000 sites identified at risk via surface water drainage and wastewater drainage to the public systems, River Mayne, and Baldoyle Bay. However, any pollutants/contaminants arising during the construction and operational phases, including silt laden runoff, dust and/other potential contaminants will likely be dispersed or diluted (within the respective drainage network, estuarine environment, and/ or in the marine environment) to negligible levels prior to reaching either site.
- The project incorporates several surface level SuDS features including green roofs through to permeable paving. These SuDS features will intercept, convey, and dispose of stormwater thereby having an attenuating effect and reducing the volume of surface water runoff.
- The incorporation of SuDS features into the design of the project is required by several policy frameworks (GDSDS, Regional Code of Practice, Flood Risk Guidelines, Dublin City Development Plan, 2022-2028) and are a standardised embedded mitigation. With the Planning Authority's drainage division raising no substantive drainage concerns in relation to the proposed development subject to safeguards. The effects of SuDS have therefore been considered in the undertaking of this appropriate assessment screening as the primary reason for the use of SuDS has not been to protect any Natura 2000 site.
- The potential for likely significant effects during the project's operation phase from surface water impacts through the hydrological connection can be reasonably excluded.
- The lateral separation distances between the site and Natura 2000 sites are such that there would be a high level of dilution, mixing and/ or dissipation of any contaminant in the receiving surface and/ or sea waters and as such any contaminants arising during construction and operational phases would be imperceptible and negligible levels prior to reaching either site.
- The low probability of surface water and/ or wastewater (post-treatment) contamination which would have the potential to negatively affect the qualifying features of the Nature 2000 sites (e.g., contaminate food sources for marine mammals through to seabird species).
- The site has no history of flooding.

**As a precaution I summarise the potential mechanisms for the Natura 2000 sites identified under Table 1 above as follows:**

- A) Surface water pollution during construction phase.
- B) Surface water pollution during operation phase.
- C) Foul water pollution during construction phase.
- D) Foul water pollution during operation phase.
- E) Visual, Noise, Vibration and Air Disturbance during construction phase.
- F) Visual, Noise, Vibration and Air Disturbance during operation phase.



**Step 4:****Identification of likely significant effects on the Natura 2000 sites 'alone'**

The following table below identifies the likely significant effects of the project 'alone' on the Baldoyle SAC, Baldoyle SPA and the North West Irish Sea Natura 2000 are examined against the potential mechanisms concluded upon in Step 3 above.

**Table 2**

<b>Could the project undermine the Conservation Objectives 'alone'</b>							
<b>Baldoyle Bay SAC (Site Code: 000199)</b>		<b>Could the Conservation Objectives be undermined (Y/N)?</b>					
		<b>Effect A</b>	<b>Effect B</b>	<b>Effect C</b>	<b>Effect D</b>	<b>Effect E</b>	<b>Effect F</b>
<b>Natura 2000 Site &amp; Qualifying Feature</b> <ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows [1330]</li> <li>• Mediterranean salt meadows [1410]</li> </ul>	<b>Conservation Objective:</b>  <i>To maintain or the restore favourable conservation conditions of the species and/or habitats listed as Qis for this SAC.</i>	Y	N	Y	N	N	N
		Y	N	Y	N	N	N
		Y	N	Y	N	N	N
		Y	N	Y	N	N	N
		Y	N	Y	N	N	N
<b>Baldoyle Bay SPA (Site Code: 004016)</b>		<b>Effect A</b>	<b>Effect B</b>	<b>Effect C</b>	<b>Effect D</b>	<b>Effect E</b>	<b>Effect F</b>
<b>Qualifying Feature:</b> <ul style="list-style-type: none"> <li>• Light-bellied Brent Goose (Branta bernicla hrota) [A046]</li> <li>• Shelduck (Tadorna tadorna) [A048]</li> <li>• Ringed Plover (Charadrius hiaticula) [A137]</li> <li>• Golden Plover (Pluvialis apricaria) [A140]</li> </ul>	<b>Conservation Objective:</b>  <i>To maintain or the restore favourable conservation conditions of the species and/or habitats listed as Qis for this SPA.</i>	Y	N	Y	N	N	N
		Y	N	Y	N	N	N
		Y	N	Y	N	N	N
		Y	N	Y	N	N	N
		Y	N	Y	N	N	N

<ul style="list-style-type: none"> <li>• Grey Plover (Pluvialis squatarola) [A141]</li> <li>• Bar-tailed Godwit (Limosa lapponica) [A157]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>		Y	N	Y	N	N	N
		Y	N	Y	N	N	N
<p><b>* North West Irish Sea SPA</b></p> <p><b>Qualifying Interests:</b></p> <ul style="list-style-type: none"> <li>• Red-throated Diver (Gavia stellata) [A001]</li> <li>• Great Northern Diver (Gavia immer) [A003]</li> <li>• Fulmar (Fulmarus glacialis) [A009]</li> <li>• Manx Shearwater (Puffinus puffinus) [A013]</li> <li>• Cormorant (Phalacrocorax carbo) [A017]</li> <li>• Shag (Phalacrocorax aristotelis) [A018]</li> <li>• Common Scoter (Melanitta nigra) [A065]</li> <li>• Little Gull (Larus minutus) [A177]</li> <li>• Black-headed Gull (Chroicocephalus ridibundus) [A179]</li> <li>• Common Gull (Larus canus) [A182]</li> <li>• Lesser Black-backed Gull (Larus fuscus) [A183]</li> </ul>	<p><b>Conservation Objective:</b></p> <p><i>To maintain or restore the favourable conservation conditions of the species and/or habitats listed as Qis for this SPA.</i></p>	N	N	N	N	N	N
		N	N	N	N	N	N
		N	N	N	N	N	N
		N	N	N	N	N	N
		N	N	N	N	N	N
		N	N	N	N	N	N
		N	N	N	N	N	N
		N	N	N	N	N	N
		N	N	N	N	N	N

• Herring Gull (Larus argentatus) [A184]		N	N	N	N	N	N
• Great Black-backed Gull (Larus marinus) [A187]		N	N	N	N	N	N
• Kittiwake (Rissa tridactyla) [A188]		N	N	N	N	N	N
• Roseate Tern (Sterna dougallii) [A192]		N	N	N	N	N	N
• Common Tern (Sterna hirundo) [A193]		N	N	N	N	N	N
• Arctic Tern (Sterna paradisaea) [A194]		N	N	N	N	N	N
• Little Tern (Sterna albifrons) [A195]		N	N	N	N	N	N
• Guillemot (Uria aalge) [A199]		N	N	N	N	N	N
• Razorbill (Alca torda) [A200]		N	N	N	N	N	N
• Puffin (Fratercula arctica) [A204]		N	N	N	N	N	N

\* *North West Irish Sea SPA Included as a Precaution (I refer to the discussion above under the heading Effect Mechanisms on North West Irish Sea SPA).*

#### **Effect Mechanism A (Surface water pollution during construction phase)**

- Yes. Potential for surface water run-off from the project via the public network to marine environment of Baldoyle Bay/Irish Sea via the River Mayne and in turn to the pathway to both named Natura 2000 SPA site at risk. In relation to Baldoyle SAC at its nearest lateral separation distance it is c2.3km from the site with the Baldoyle SPA a further 0.3km. Additionally, the North West Irish Sea SPA has a lateral separation distance of c4.2km from the site. Given the separation distance the impact of surface water pollution on these Natura 2000 sites or any other such sites at a further lateral separation distance would be negligible on the basis of the dilution factor. The possibility of any impact on any of these three Natura 2000 sites from surface water discharge from the proposed development during the construction phase is low however given the proximity involved. Notwithstanding to provide certainty for no significant effect mitigation measures, in the form of standard construction measures to accord with best practices, are proposed to protect Baldoyle Bay SAC and SPA as well as Natura 2000 sites at a further lateral separation distance.

#### **Effect Mechanism B (Surface water pollution during operation phase)**

- None. In terms of hydrological connectivity between the proposed development and Natura 2000 sites during operational phase the project proposes use of standard best practice surface water and foul water drainage as part of the project. The surface and storm water would discharge from the site to the public network with the surface water/storm water discharging downstream into the watercourse of the River Mayne and the foul water discharging to the marine environment of Baldoyle

Bay after treatment under licence at the Malahide Wastewater Treatment Plant. Given the distances between the site and the Natura 2000 sites, in particular those identified in AASR as at risk from the proposed development, any pollutants would be dispersed, diluted within the existing network prior to reaching the marine environment of Baldoyle Bay and the Irish Sea beyond. Therefore, I am satisfied that there is no direct pathway to both named Natura 2000 SPA sites identified at risk or any other such sites at further lateral separation distance from the site and I am satisfied that subject to best standard treatment of surface water the potential for significant effects on such sites can be ruled out with certainty.

#### **Effect Mechanism C (Foul water pollution during construction phase)**

- Yes. There is potential for a low potential for an adverse pollution event resulting in foul water discharge from the project as part of the disconnecting the existing connectivity to the foul drainage on Malahide Road from the dwelling house located on the north west of the site through to the management of foul water from the activities associated with the site being a people intensive construction site. Therefore, standard mitigation measures in accordance with best practices and standards are required during the construction phase to deal with this potential. Should such an event occur there is ample separation distance between the site and the nearest Natura 2000 site to dilute any foul water pollutants should they give rise to contamination of the nearby River Mayne.

#### **Effect Mechanism D (Foul water pollution during operation phase)**

None. Foul water run-off from the project via the public network to marine environment of Baldoyle Bay after treatment under licence at Malahide Wastewater Treatment Plant. Best practice standards and guidance are proposed as part of the proposed development in the design of foul water drainage. Should any adverse pollution event arise foul water discharged from the site would be dispersed, diluted within the existing network prior to reaching the marine environment of Baldoyle Bay and the Irish Sea. There are no capacity issues in relation to accommodating the proposed development. There is no uncertainty over the potential effects from foul water pollution during the operation phase of the proposed development on Natura 2000 sites identified at risk or any other such sites at a further lateral separation distance.

#### **Effect Mechanism E (Visual, Noise, Vibration and Air Disturbance during construction phase)**

- No likely potential for significant effects on any Natura 2000 during the construction phase from visual, noise, vibration and air disturbances due to the lateral separation distance between Site 5 and this project. Additionally, there are no ecologically important sites in the vicinity of the site that provide an indirect pathway to any Natura 2000 site including those identified at risk.

#### **Effect Mechanism F (Visual, Noise, Vibration and Air Disturbance during operation phase)**

- None. As Effect Mechanism E.

#### **Effect Mechanism A, B, C, D, E & F on the North West Irish Sea SPA**

I consider that potential for significant effects on the North-west Irish Sea candidate SPA can be excluded based on the proposed development would not result in impacts that could undermine the attainment of conservation objectives. The development would not result in impacts that could affect seabird population trends, cause disturbance of birds in the marine environment, their spatial distribution, forage distribution and abundance or cause barriers to access to the SPA or other ecologically important sites outside the SPA.

#### **Step 5: Where Relevant, Likely Significant Effects on the Natura 2000 Site(s) 'In-Combination with other Plans and Projects'**

##### **In-combination Effects**

I have had regard to the information included in the AASR on plans and projects.

In this regard I note that the AASR outlines several plans and planning applications in the vicinity of the site under Table 4. Following consideration of which, the AASR did not identify any significant in-combination effect.

I have also reviewed the planning authority's website for applicable appropriate assessment information on relevant plans through to any recent planning authority and An Bord Pleanála's decisions in relation to planning applications on sites in the vicinity of this project.

Following my own review of the AASR together with the planning history of relevance since this planning application was lodged. I note the comments set out under Step 4 of the report above in relation to the likely significant effects of the project on Natura 2000 sites with this concluding that there was a potential for effects to arise to Baldoyle Bay SAC & SPA via the River Mayne due to its proximity to this water course during construction phase. Since the AASR was prepared and this subject planning application has been lodged the Planning Authority has granted permission for alterations to a 12-storey building on the adjoining site together with ancillary site works and services (Note: Section 4 of this report includes this permitted development as part of the planning history).

Of note the adjoining parcel of lands to the south are within c70m of the River Mayne.

On the basis of the precautionary principle given the nature, extent and scale of this adjoining permitted development with it requiring mitigation measures similar to those included for this project during its construction and operational phase I therefore consider that there is potential for an in-combination effect between the two projects.

My assessment of this is summarised under Table 3 as follows.

**Table 3**

Could the project undermine the Conservation Objectives in combination with other plans and projects?							
Natura 2000 Site & Qualifying Feature	Conservation objective	Could the conservation objectives be undermined (Y/ N/ Uncertain)?					
		Effect A	Effect B	Effect C	Effect D	Effect E	Effect F
<b>Baldoyle Bay SAC (Site Code: 000199)</b> <b>Qualifying Feature:</b> <ul style="list-style-type: none"> <li>Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>Salicornia and other annuals colonising mud and sand [1310]</li> <li>Atlantic salt meadows [1330]</li> <li>Mediterranean salt meadows [1410]</li> </ul>	<i>To maintain or restore the favourable conservation conditions of the species and/or habitats listed as QIs' for this SAC</i>	Y	N	Y	N	N	N
		Y	N	Y	N	N	N
		Y	N	Y	N	N	N
		Y	N	Y	N	N	N

<p><b>Baldoyle Bay SPA</b> (Site Code: 004016)</p> <p><b>Qualifying Feature:</b></p> <ul style="list-style-type: none"> <li>• Light-bellied Brent Goose (Branta bernicla hrota) [A046]</li> <li>• Shelduck (Tadorna tadorna) [A048]</li> <li>• Ringed Plover (Charadrius hiaticula) [A137]</li> <li>• Golden Plover (Pluvialis apricaria) [A140]</li> <li>• Grey Plover (Pluvialis squatarola) [A141]</li> <li>• Bar-tailed Godwit (Limosa lapponica) [A157]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>	<p><i>To maintain the favourable conservation condition of these species listed as QI's for this SPA</i></p>	Y	N	Y	N	N	N
<p><b>North West Irish Sea SPA (Site Code: 004236)</b></p> <p><b>Qualifying Interests:</b></p> <ul style="list-style-type: none"> <li>• Red-throated Diver (Gavia stellata) [A001]</li> <li>• Great Northern Diver (Gavia immer) [A003]</li> <li>• Fulmar (Fulmarus glacialis) [A009]</li> <li>• Manx Shearwater (Puffinus puffinus) [A013]</li> <li>• Cormorant (Phalacrocorax carbo) [A017]</li> </ul>	<p><i>To maintain the favourable conservation condition of these species listed as QI's for this SPA</i></p>	N	N	N	N	N	N

• Shag (Phalacrocorax aristotelis) [A018]		N	N	N	N	N	N
• Common Scoter (Melanitta nigra) [A065]		N	N	N	N	N	N
• Little Gull (Larus minutus) [A177]		N	N	N	N	N	N
• Black-headed Gull (Chroicocephalus ridibundus) [A179]		N	N	N	N	N	N
• Common Gull (Larus canus) [A182]		N	N	N	N	N	N
• Lesser Black-backed Gull (Larus fuscus) [A183]		N	N	N	N	N	N
• Herring Gull (Larus argentatus) [A184]		N	N	N	N	N	N
• Great Black-backed Gull (Larus marinus) [A187]		N	N	N	N	N	N
• Kittiwake (Rissa tridactyla) [A188]		N	N	N	N	N	N
• Roseate Tern (Sterna dougallii) [A192]		N	N	N	N	N	N
• Common Tern (Sterna hirundo) [A193]		N	N	N	N	N	N
• Arctic Tern (Sterna paradisaea) [A194]		N	N	N	N	N	N
• Little Tern (Sterna albibrons) [A195]		N	N	N	N	N	N
• Guillemot (Uria aalge) [A199]		N	N	N	N	N	N
• Razorbill (Alca torda) [A200]		N	N	N	N	N	N
• Puffin (Fratercula arctica) [A204]		N	N	N	N	N	N

Having regard to the precautionary principal I note the following in relation to the potential mechanisms conclusions set out in the table above:

**Effect Mechanism A (Surface water pollution during construction phase)**

- Yes. Like in the case of the project sought under this planning application the permitted project on the adjoining site to the south has the potential to give rise to an indirect in-combination surface

water run-off via the River Mayne. In this regard this watercourse which is located c70m to the north of the adjoining site connects to Baldoyle Bay downstream. Mitigation measures, in the form of standard construction measures, are therefore required to be proposed to protect Baldoyle Bay SAC and SPA. These measures would ensure that clean and uncontaminated water only would enter the River Mayne and that dust as well as other potential pollutants controls are in place.

**Effect Mechanism B (Surface water pollution during operation phase).**

- None. In terms of hydrological connectivity between the proposed development and Natura 2000 sites during operational phase the project proposes use of standard best practice surface water and foul water drainage as part of the project. The surface and storm water would discharge from the site to the public network with the surface water/storm water discharging downstream into the watercourse of the River Mayne and the foul water discharging to the marine environment of Baldoyle Bay after treatment under licence at the Malahide Wastewater Treatment Plant. Given the distances between the site and the Natura 2000 sites, in particular those identified in AASR as at risk from the proposed development and the development associated with the permitted application for Site 5 any pollutants would be dispersed, diluted within the existing network prior to reaching the marine environment of Baldoyle Bay and the Irish Sea beyond. Therefore, I am satisfied that there is no uncertainty over effects on the status of any Natura 2000 sites, particularly those identified at potential risk from surface water pollution during the operational phase, even where an adverse event was to occur, in combination with planning application permitted for Site 5, if implemented.

**Effect Mechanism C (Foul water pollution during construction phase).**

- Yes. An adverse pollution event resulting in foul water discharge from the project as part of Site 5 being similarly a people intensive construction site during the construction phase. As such there is potential albeit remote for foul water pollution during construction phase to occur in tandem with the development of this adjoining site. However, standard mitigation measures would be employed on both sites and potential for in-combination effects would be neutral, localised and remote from any Natura 2000 site including those identified at potential risk in Baldoyle Bay.

**Effect Mechanism D (Foul water pollution during operation phase).**

None. Foul water run-off from the project via the public network to marine environment of Baldoyle Bay after treatment under licence at Malahide Wastewater Treatment Plant. Best practice standards and guidance are proposed as part of the proposed development in the design of foul water drainage. Should any adverse pollution event arise foul water discharged from the site would be dispersed, diluted within the existing network prior to reaching the marine environment of Baldoyle Bay and the Irish Sea. There are no capacity issues in relation to accommodating the proposed development. I am satisfied that there are no in-combination effects arising from the project permitted on the adjoining site to the south.

**Effect Mechanism E (Visual, Noise, Vibration and Air Disturbance during construction phase).**

- None. Given the lateral separation distance between the site and the adjoining project on Site 5 to the immediate south there is no likelihood for any in-combination effects arising to any Natura 2000 sites during the construction phase, including when regard is had to dust and other possible air borne contaminants. Such contaminants would be dispersed and diluted within the existing network prior to reaching the marine environment of Baldoyle Bay and the Irish Sea beyond where the nearest Natura 2000 sites are located. Additionally, there are no ecologically important sites in the vicinity of the site that provide an indirect pathway to any Natura 2000 site including those identified at risk.

**Effect Mechanism F (Visual, Noise, Vibration and Air Disturbance during operation phase).**

- None. As Effect Mechanism E.

I note that the AASR provided with this application concludes that the project would have no likely significant effect in combination with other plans and projects on the qualifying features of any Natura 2000 site. Notwithstanding, given the lateral separation distance between the adjoining site to the



south to the River Mayne together with the nature, scale and extent I am not satisfied that the potential for in-combination effects cannot be ruled out with certainty. However, I am nonetheless still satisfied that the potential Natura 2000 sites at potential risk remain as concluded upon by the AASR, i.e. Baldoyle Bay SAC & SPA, with no other in-combination effects likely between this development and proposed developments permitted in its proximity. Moreover, given the significant lateral separation distance from the site and the North West Irish Sea SPA I consider that the potential for significant effects on this Natura 2000 site can be excluded when considered in combination with other plans and/or projects given the significant lateral separation distance. Over such a distance the proposed development would not result in impacts that could undermine the attainment of conservation objectives. The development would not result in impacts that could affect seabird population trends, cause disturbance of birds in the marine environment, their spatial distribution, forage distribution and abundance or cause barriers to access to the SPA or other ecologically important sites outside the SPA.

### **Appropriate Assessment: Stage 1 Conclusion - Screening Determination**

In accordance with Section 177U of the Planning and Development Act, 2000, as amended, and on the basis of objective information, having carried out Appropriate Assessment Screening (Stage 1) of the project, it has been determined that the project may have likely significant effects Baldoyle Bay SAC (Site Code: 000199) and Baldoyle Bay SPA (Site Code: 004016) in view of their conservation objectives and qualifying interests. An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of both of these named Natura 2000 sites in light of their conservation objectives.

The possibility of likely significant effects on other Natura 2000 sites has been excluded on the basis of the nature and scale of the project, separation distances, and the absence of meaningful pathways to other Natura 2000 sites.

No measures intended to avoid or reduce harmful effects on Natura 2000 sites have been considered in reaching this conclusion.

## **Appropriate Assessment Stage 2**

### **Aspects of the Proposed Development**

The NIS indicates that in respect of the effects of the project on the Baldoyle Bay SAC and Baldoyle SPA due to the potential for downstream impacts during construction that it cannot be excluded on the basis of best scientific information that in the absence of control mitigation measures following screening that this project either individually and/or in combination with other plans or projects will have a significant effect on these named Natura 2000 sites.

I concur with this conclusion including when regard is had to planning applications granted in proximity to the site and new Natura 2000 sites designated albeit at a more significant lateral separation distance of c4.2km.

The potential impacts could arise in particular from any deterioration in water quality as a result of the uncontrolled or unmitigated release of pollutants, including sediments, invasive species to the drains and streams that are hydrologically connect the site to the River Nore. This in turn could have adverse impacts on qualifying interests. The potential for adverse impacts is identified below under the following subheadings: construction; operational and an in-general in-combination construction / operational phases on the Natura 2000 site's qualifying interests habitats and species.

### **Construction Phase**

The project involves preparatory site works including the demolition of existing buildings and structures on site; the excavation (removal of top and subsoils), reprofiling of ground levels through to the excavation for foundations for the proposed buildings which includes a basement car parking level through to ancillary infrastructure. Construction works also include laying of services infrastructure and other hard surfaces including the construction of an access ramp, revised entrance onto Malahide Road through to modifications of the adjoining public domain.

During construction works, especially during periods of wet weather, there is potential for an increase in siltation and pollution of surface water run-off with hydrocarbons, cement and other suspended materials. There is the potential for contaminated run-off to be discharged to the existing public surface water network and in turn to the marine environment of Baldoyle Bay which could have significant effect on Baldoyle Bay SAC & SPA.

The potential impacts of the construction phase are set out under Table 10 of the AASR in detail. With this table indicating that there is potential for a direct pathway for surface water across the woodland buffer between the proposed development site and the Mayne River. Additionally, it identifies that there is potential for a direct pathway for surface water runoff contamination of water from ground excavations, pollution to enter the Mayne River through direct pathway and surface water networks, with potential downstream impacts on the Mayne River and the Natura 2000 sites within Baldoyle Bay.

Further, the AASR indicates that there is potential for silt laden runoff, dust or contamination to enter surface water network and with potential for downstream impacts during construction.

The AASR indicates that mitigation measures are therefore required to ensure that the proposed development will not impact on the conservation objectives of the Natura 2000 sites within Baldoyle Bay.

### **Operation Phase**

Once operational, the AASR considers that the project will be served by and connected to the public water networks. It is proposed to be operated and maintained in accordance with the requirements of Uisce Eireann as well as the Planning Authority. The on-site surface water system incorporates attenuation and treatment stages prior to discharge to the public system. As the public networks are enclosed piped systems, the project does not directly discharge to any surface watercourse, and it is considered that there is limited potential for pollution events to groundwater including during any adverse event. Therefore, the AASR considers that there are no likely significant effects on the QI and the Conservation Interests of any Natura 2000 sites within Baldoyle Bay, in particular Baldoyle SAC & SPA, are reasonably anticipated from this project during its operational phase.

The AASR also indicates that like during the construction phase that operational mitigation measures will be incorporated into the proposed development to minimise the potential negative impacts within the zone of influence. With this including the River Mayne and downstream Natura 2000 sites.

During this phase the main potential vector for impacts to Natura 2000 sites is identified as the indirect connection to the River Mayne.

### **Construction & Operational Phase**

The mitigation measures set out for these phases are indicated as being standard. With the mitigation measures designed to also ensure that the project will comply with the Water Pollution Acts, Development Plan through to Inland Fisheries standard requirements.

The project will result in an increase in human activity (noise, light, odour and the like) during the construction and operational phase of the project.

### **Mitigation Measures**

A range of mitigation measures are identified during the construction and operation phases of the project to protect the water quality of the River Mayne, prevent pollution events, mitigate against

excessive siltation, and other identified potential impacts. These mitigation measures are found in a number of documents in varying detail. With the NIS, CEMP, Basement Management Plan, Flood Risk Assessment, Environmental Impact Assessment and the Engineering Reports providing overlapping mitigation measures for the proposed project. The mitigation measures relate to the following potential effect mechanisms:

- Potential Discharges to Soil and Groundwater
- Air & Dust
- Harmful Pollutants
- Adjacent Watercourse
- Further Ecological Protection Measures

The NIS report provides a further detailed evaluation of the two Natura 2000 sites identified at potential risk and notes that Baldoyle Bay SAC is located 2.3km from the boundary of the site. It considers that this development has potential for indirect hydrological connection to this Natura 2000 site via the River Mayne which discharges into Baldoyle Bay from surface water during construction and operation from surface water discharge. It notes that the current conservation status of the following Qualifying Interests is **Inadequate**:

- Mudflats and sandflats not covered by seawater at low tide [1140]
- Atlantic salt meadows [1330]
- Mediterranean salt meadows [1410]

In Table 6 of the NIS, it sets out the attributes, measure and target of these Qualifying Interests.

It notes that the current conservation status of the following Qualifying Interest is **Favourable**:

- Salicornia and other annuals colonising mud and sand [1310]

In relation to Baldoyle SPA the NIS notes that this SPA is located 2.6km from the site boundary and that it is therefore indirectly hydrologically connected to the site via surface water drainage strategy. It notes that the surface water will be directed to a wetland installed within the Mayne River flood plain located beyond the line of the existing north fringe foul sewer. It further notes that surface water will then discharge to the River Mayne after attenuation in the wetland with the River Mayne ultimately out falling to Baldoyle Bay. It notes that the current conservation status of the following Qualifying Interests are as follows:

- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046] - **Amber**
- Shelduck (*Tadorna tadorna*) [A048] - **Amber**
- Ringed Plover (*Charadrius hiaticula*) [A137] - **Green**
- Golden Plover (*Pluvialis apricaria*) [A140] - **Red**
- Grey Plover (*Pluvialis squatarola*) [A141] - **Amber**
- Bar-tailed Godwit (*Limosa lapponica*) [A157] - **Amber**
- Wetland and Waterbirds [A999] – N/A

Additionally, reference is made to the current population data for the Baldoyle SPA as outlined in the NPWS.

Overall, the AASR considers that the mitigation measures have arisen from a multi-disciplinary approach of the project team with these measures ensuring water entering the River Mayne would be clean and uncontaminated. Alongside that dust levels are controlled with measures put in place to control and prevent pollution particularly during dewatering for excavation works. With the

successful implementation of the mitigation measures during construction it is considered that no significant impacts are foreseen from the construction and operational phases of this project.

### **Residual Effects**

The NIS does not identify residual impacts outside of localised to the immediate vicinity of the proposed works. The AASR considers that the construction mitigation measures will satisfactorily address the potential impacts on designated conservation sites through the application of the construction phase controls identified in this report. In this regard particular controls would be employed for silt, dust and pollution entering the River Mayne which would satisfactorily address the potential for downstream biodiversity as well as Natura 2000 sites.

Further, during operations that standard controls will be in place.

It is also considered that, upon application of the mitigation measures, the proposed development poses no risk of adverse residual effects on the conservation objectives, of the qualifying interest habitats of any Natura 2000 sites identified at risk or any other such site, either alone or in combination with other plans or projects. With the measures also including the removal of invasive species on site in accordance with best standard practices.

### **AASR Conclusion**

It concludes that in strict application of the precautionary principle that it has been concluded that mitigation measures were required to prevent impacts on Baldoyle SAC & SPA primarily as a result of the direct and indirect hydrological connection to the site via the River Mayne during site clearance, excavation and construction works. The mitigation measures will be in place to ensure that no significant impacts on the River Mayne that leads to conservation sites identified at risk. It indicates that a project ecologist will be appointed to oversee works on site and to ensure implementation of the mitigation measures. Further, it considers that the implementation of the mitigation measures outlined in the AASR will be sufficient to prevent any adverse effects on the integrity of the Natura 2000 sites. It concludes that either alone or in combination with other plans or projects, on the basis of best scientific knowledge and in the view of the site's conservation objectives identified at potential risk that no significant effects are likely on Natura 2000 sites, their features or interest or conservation objective. Therefore, the proposed development will not adversely affect the integrity of such sites.

### **Appropriate Assessment: Stage 2 Conclusion**

The project has been considered in light of the assessment requirements of sections 177U and 177V of the Planning and Development Act 2000, as amended. On the basis of objective information, I have assessed the implications of the project on the Baldoyle Bay SAC and the Baldoyle Bay SPA in view of their conservation objectives. I have had regard to the applicant's NIS; all other relevant documentation and submissions on the case file. I also have had regard to planning history of the site setting through to had regard to all relevant local through to national planning provisions as well as guidance. This has included having regard to relevant changes that have occurred in the intervening time since this application was lodged including more recent grants of permission in the proximity of the site and the designation of the North West Irish Sea SPA.

I consider that the information included in the case file is adequate to allow the carrying out of an Appropriate Assessment.

Following the Appropriate Assessment (Stage 2), it has been concluded that the project, individually or in-combination with other plans or projects, would not adversely affect the integrity of Baldoyle Bay SAC and the Baldoyle Bay SPA in view of the sites' conservation objectives and qualifying interests. This conclusion is based on:

- An assessment of all aspects of the project including proposed mitigation measures in relation to the conservation objectives of Baldoyle Bay SAC and the Baldoyle Bay SPA.
- An assessment of in-combination effects with other plans and projects including historical and current plans and projects.

- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Baldoye Bay SAC and the Baldoye Bay SPA.

I also consider that potential for significant effects on the North-West Irish Sea SPA can be excluded as the proposed development would not result in impacts that could undermine the attainment of conservation objectives.

Having regard to the above and taking account of the nature, scale and extent of the proposed development and on the basis of the information on the file, it can be reasonably concluded on the basis of best scientific knowledge that the proposed development, either individually or in combination with other plans and projects, will not adversely affect the integrity of the Baldoye Bay SAC (Site Code: 000199) and Baldoye Bay SPA (004016) in view of the sites' Conservation Objectives, subject to the implementation of the mitigation measures and any relevant recommended conditions.

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

**Date:** 11<sup>th</sup> day of March, 2025.

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-319570-24		
<b>Proposed Development</b> <b>Summary</b>	Demolition of buildings, construction of 2 apartment blocks containing 79 no. apartments together with all associated site work and services. Accompanied by Natura Impact Statement.		
<b>Development Address</b>	No.s 1 & 2 Hawthorn Cottages, Malahide Road, Dublin 17, D17 HD39.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓	Yes. Subthreshold for Class 10(b)(i); Class 10(b)(iv); Class 14 & Class 15(b) of the Planning Regulations, 2001, as amended.	Proceed to Q3.
<b>No</b>			No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	✓	No. Subthreshold for Class 10(b)(i); Class 10(b)(iv); Class 14 & Class 15(b) of the Planning Regulations, 2001, as amended.	Proceed to Q4

<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	√	<p>Yes: Sub threshold for:</p> <p>Class 10(b)(i); Class 10(b)(iv); Class 14 and Class 15(b) of Planning Regulations, 2001, as amended.</p> <p>This is on the basis that the proposed development consists of the demolition of two modest former in use residential structures as part of facilitating the construction of 72 No. dwelling units and 1 No. Community/Cultural Space on a site of 4,235m<sup>2</sup> which is below the mandatory threshold for EIA. The overall nature, extent and scale of the proposed development is well below the applicable thresholds for EIA.</p>	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	√	<b>Screening determination remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

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

Date: 11<sup>th</sup> day of March, 2025.

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-319570-24
<b>Proposed Development Summary</b>	Demolition of buildings, construction of 2 apartment blocks containing 79 no. apartments together with all associated site work and services. Accompanied by Natura Impact Statement.
<b>Development Address</b>	No.s 1 & 2 Hawthorn Cottages, Malahide Road, Dublin 17, D17 HD39.
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size, or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development consists of the construction of two modest formerly used residential dwelling as part of facilitating the construction of a high-density residential scheme on lands zoned strategic development and regeneration area (Z14) under the Dublin City Development Plan, 2022-2028, within an emerging suburban area of development characterised by similar in scale development on Z14 zoned lands.</p> <p>As such this project does not differ from the surrounding area in terms of character (i.e. predominantly residential in land use function).</p> <p>The project will cause physical changes to the site during the site development works (i.e., site enabling and construction activities).</p> <p>Additionally, during the demolition and construction phases, the proposed development would generate waste during excavation and construction. However, given the nature, scale and extent of the project which seeks to optimise these accessible serviced zoned lands I do not consider that the level of waste generated would be significant in the local, regional, or national context.</p> <p>I consider that no significant waste, emissions or pollutants would arise during the operational phase either due to the nature of the proposed use.</p> <p>The project uses standard construction methodologies, materials and equipment of their time and the process will be managed though the implementation of the CEMP.</p>



	<p>Similarly, waste arising from the demolition and construction phase will be managed through the implementation of a RWMP (required by condition).</p> <p>There is no significant use of natural resources anticipated or use natural resource that are in short supply.</p> <p>This project overall uses land more efficiently and sustainably than at present (two vacant dwelling houses on large garden plots).</p>
<p><b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural, or archaeological significance).</p>	<p>The project is not located in, on, or adjoining any Natura 2000 site, any designated or proposed NHA, or any other listed area of ecological interest or protection.</p> <p>The closest Natura 2000 site are Baldoyle Special Area of Conservation (Site Code: 000199) and Baldoyle Special Protection Area (Site Code: 004016). They are located c2.3km and c2.8km respectively from the site as the bird would fly. Dublin Bay contains several Natura 2000 sites and at a further lateral separation distance beyond the projects zone of influence.</p> <p>I identify that there is an indirect hydrological connection between the site and the Natura 2000 sites of Baldoyle Special Area of Conservation and Baldoyle Special Protection Area via the River Mayne which is located c22 to 25m to the north of the site at its nearest point.</p> <p>The NIS together with other documentation included with this application including Construction Management Plan, Engineering Services Report, Flood Risk Assessment, Basement Impact Assessment, Operational Waste Management Plan, ecological Impact Assessment, cumulative presents information on potential impacts of the project on Natura 2000 sites, allowing the Board to undertake an Appropriate Assessment: Stage 1 and Stage 2 (I refer the Board to section 8.0 and Appendix 1 of this report above).</p> <p>This process concluded that the project would not adversely affect the integrity of Baldoyle Special Area of Conservation and Baldoyle Special Protection Area in view of the sites' conservation objectives and qualifying interests.</p> <p>This conclusion was based on the nature and scale of the project, separation distances, and the weakness of connections between the project, the appeal site, and the Natura 2000 sites.</p> <p>The conclusion was based on mitigation measures proposed, in-combination effects with other plans and projects, and there being no reasonable scientific doubt as to the absence of adverse effects on the sites.</p> <p>Additionally, there is no evidence to support that the site contains any rare or protected species (mammal or flora).</p>

	<p>The site is determined to have no key ecological receptors and no evidence of habitats or species with links to any Natura 2000 sites, including bird species.</p> <p>The overall low biodiversity of the habitat of this site has limited contribution to the biodiversity associated with the River Mayne with the scheme including robust qualitative landscaping along the northern boundary of the site as well as measures to protect natural features bounding the site and to be retained within the site.</p> <p>There are no landscape designations or protected scenic views that include the site.</p> <p>There are no protected structures or architectural conservation area designations at the site.</p> <p>The site is brownfield and does not form part of a zone of archaeological constraint associated with a Recorded Monument &amp; Place. Any potential for archaeological discovery can be appropriately dealt with by way of a standard condition dealing with potential for archaeological discovery. The nearest such site is located c276m to the north west of the site (Note: DU015-116 – Ring Ditch) with substantial residential development within its vicinity (Note: River Walk).</p>
<p><b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects, and opportunities for mitigation).</p>	<p>Having regard to the following factors:</p> <ul style="list-style-type: none"> <li>• The nature, scale and extent of the project, which is below the thresholds in respect of Class 10(b)(i); Class 10(b)(iv); Class 14 and Class 15(b) of the Planning and Development Regulations, 2001, as amended.</li> <li>• The relevant policies and objectives in the Dublin City Development Plan, 2022-2028, (including the site being subject to Zoning Objective Z14 – SDRA 1), and the results of the strategic environmental assessment of these plans undertaken in accordance with the SEA Directive (2001/42/EC).</li> <li>• Brownfield nature of the site and its location in a suburban area which is served by public services and infrastructure with capacity to absorb the quantum of development proposed.</li> <li>• The pattern of existing and permitted development in the area.</li> <li>• The planning history of the site and its setting.</li> <li>• The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction Management Plan, Ecological Impact Assessment, Natura Impact Statement, Flood Risk Assessment, Engineering Services Report, Basement Impact Assessment, Operational Waste Management through to the Archaeological Impact Assessment.</li> </ul>

	<ul style="list-style-type: none"> <li>• The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.</li> <li>• The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003).</li> <li>• The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.</li> </ul> <p>On the basis of the above I conclude that the environmental sensitivity of the sites and its setting would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment, at construction and operational stages of the development, and that the preparation of an Environmental Impact Assessment Report would not, therefore, be required, in this case.</p>
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>  There is <u>no</u> real likelihood of significant effects on the environment.	<b>Conclusion in respect of EIA</b>  <u>EIA is not required.</u>

**Inspector:**

**Date:** 11<sup>th</sup> day of March, 2025.

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

(only where Schedule 7A information or EIAR required)