



An
Bord
Pleanála

Inspector's Report

ABP-320660-24

Development

Large-scale residential development:
Construction of 135 residential units
ranging in height from 3-5 storeys and
all associated site works. EIAR and NIS
were submitted with the application

Location

Lands adjoining Howth Demesne, Deer
Park, Howth, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

LRD0035/S3

Applicant(s)

GLL PRS Holdco Ltd

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

GLL PRS Holdco Ltd

Observer(s)

Maria Doyle

Christina Morris

Alan Downey

Eamonn Augustine O'Duibhgeannain

Hillwatch

Roxanne White

Michael O'Neill

Date of Site Inspection

15th October 2024

Inspector

Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 1.53 ha is located in Deer Park, Howth, to the south of the Howth Road (R105), and to north-west of Howth Castle. The site is enclosed along its northern and eastern boundary by the historic Howth estate walls and trees. The northern boundary wall of the site is included on the National Inventory of Architectural Heritage, Reg. Ref. 11358027. The proposed development site is c115m northwest of Howth Castle (RPS ID0556) and c100m west of St Mary's Church (RPS ID 0594), both of which are identified as protected structures in the Development Plan. The primary entrance to Howth Castle and the Golf Club is to the east of the subject site through gates that are set back from the public road.
- 1.2. There is no existing pedestrian or vehicular access to the site from Howth Road. A combination of hedgerow and wall forms the western site boundary and beyond it are low rise residential dwellings that form ribbon type development in a westerly direction toward Sutton Cross. The extensive tree belt (approx. 25-30 years old) with an east-west alignment delineates the boundary with the golf course to the south. Howth Castle is located immediately south-east of the site and forms part of an Architectural Conservation Area (ACA). The boundary of the ACA was limited to a core area surrounding Howth Castle and the entrance. The proposed development site is partially located in the ACA in the north-eastern corner of the Site (102sq.m) where works are limited to the provision of pedestrian access and upgrades to the footpath.
- 1.3. The site comprises undeveloped greenfield land of which 1.10ha is zoned for Residential Development. It is noted that the proposed LRD residential development is confined to the residential zoning. The balance of the application area (3,116 sq.m) is zoned High Amenity (HA) and comprises managed amenity grassland together with densely covered trees with an east-west alignment. The lands zoned HA form part of the buffer area for the Howth Special Amenity Area Order (SAAO) and no development is proposed in this location. A small portion of the residential zoned land is also located within the SAAO boundary in the southeast of the site.
- 1.4. I refer to the photos and photomontages available to view throughout the file. Together with a set of photographs of the site and its environs taken during the course of my site inspection serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. The proposed development will consist of:

- i. two offset buildings ranging in height from 3-5 storeys providing 135 residential units comprising:
 - a) 63 one-bedroom units
 - b) 72 two-bedroom units

Four blocks (connected in pairs) ranging in height from three to five storeys consisting of;

- Block A (4-5 storeys) comprising 32 apartments (9 no. 1 bedroom units, 15 no. 2-bedroom units.
- Block B (5 storeys) containing 43 no. Apartments (28 no. 1 bedroom units, 15 no. 2 bedroom units.
- Block C (4-5 storeys) containing 32 no apartments (9 no. 1 bedroom units, 23 no. 2 bedroom units.
- Block D (3-4 storeys) containing 28 no apartments (17 no. 1 bedroom units, 11 no. 2 bedroom units.

There are 8 different one bed apartment types and 11 different two bed apartment types all with slight differences in layout and size. A lift core is proposed in each of the four blocks. Recessed balconies are proposed on the northern, north eastern and north western corners of the proposed buildings fronting the Howth Road and Howth Castle entrance. The rear volumes propose projecting balconies from the apartments and the ground floor units provide for private terraces. Large windows are proposed in the blocks and all elevations are finished with a light brick with different variations of simple grid patterns. Metal cladding is proposed for the lift core vertical elevations and the balconies are made up of metal post and rail. 32 swift bricks are proposed on the south and west elevations of Block B&D as an enhancement measures for this bird species.

- ii. a public open space of 1,676 sq.m and communal open space with an area of 890 sq.m; Community open space is located within the central portion of the

site between the two buildings. To the east of the buildings a new public open space is formed with openings in the existing stone wall along Howth Road. A central communal courtyard garden is defined between the two buildings with a retractable roof pergola allowing for social gatherings, as no internal communal space is proposed as part of the application.

- iii. the provision of 63 surface car parking spaces, including 4 accessible parking spaces and 13 EV spaces; Car parking is predominantly to the west and northwest of the site close to the vehicular entrance.
- iv. the provision of 410 bicycle parking spaces, including 342 secure bicycle spaces and 68 visitor spaces; Cycle storage is located around the site and predominantly adjacent to the entrance points.
- v. partial demolition of 3 sections of the existing demesne northern boundary wall, which front Howth Road to facilitate vehicular access in the north western corner and two separate pedestrian/cyclist access points along the centre and eastern side of the northern boundary wall; an opening of 8m is required to provide a vehicular access that meets required standards and two (3m accessible & 1.5m stepped) openings are proposed to facilitate active travel and accessible movements. Metal panelling finishes are proposed to the openings.
- vi. restoration and refurbishment of the remaining extant northern and eastern demesne boundary wall;
- vii. undergrounding and relocation of existing ESB overhead lines and diversion of existing distribution gas pipe around the site;
- viii. works to facilitate bicycle infrastructure upgrades and services connections along Howth Road: and
- ix. ESB substation, kiosk, rooftop solar photovoltaics, waste storage and plant rooms, drainage, boundary treatment, public lighting, and all ancillary site and development works; The plant rooms and bin stores are centrally located between Block A and B and Block C and D.

2.2. An EIAR and NIS were submitted with the application.

2.3. The principal development statistics of the proposal are as shown below:

| | |
|-------------------------------|---|
| Site Area | 1.53ha |
| Net Development Area | 1.10 ha (zoned RS portion) |
| Total GFA | 11,247.6 sq.m |
| No of Units | 135 |
| Unit Mix | 63 no. 1 bedroom units (47%) – 2 person 72 no. 2 bedroom units (53%) – 4 person |
| Plot Ratio | 1.02 |
| Site coverage | 26% |
| Tenant Amenities & Facilities | Internal Bike and Bin Storage External retractable covered pergola area External Bike Storage buildings Play areas |
| Density | 123 units per hectare (uph) |
| Building Height | 3-5 storeys |
| Car Parking | 63 spaces |
| Bicycle Parking | 410 spaces (incl. visitor spaces) |
| Dual Aspect Units | 55% |
| Public Open Space | 1,676 sq.m |
| Communal Amenity Space | 890 sq.m |
| Quantum of Tree Removal | 10 trees to be removed from the site (approx. surface area of 300sq.m) |
| Proposed Trees | 268 – Overall surface area of proposed trees = 3,362sq.m |

2.4. The application was accompanied by the following:

- Letter of consent from the landowner (Fingal County Council and Glenveagh Homes Ltd))

- Part V Proposals & Part V Validation Letter
- Planning Statement
- Statement of Consistency
- Social Infrastructure Audit
- School Demand Assessment Report
- Childcare Demand Report
- Response to Large-scale Residential Development (LRD) Opinion
- Design Statement
- Urban Design Statement
- Universal Access Statement
- Housing Quality Assessment
- Schedule of Accommodation
- Landscape and Visual Impact Assessment
- Landscape Design Report
- Arboricultural Impact Assessment & Method Statement
- Infrastructure Design Report
- Site Specific Flood Risk Assessment Report
- Traffic & Transport Assessment and Mobility Management Plan
- Stage 1-2 Road Safety Audit
- Designer's Response to Road Safety Audit 28 DMURS Statement of Consistency
- Construction Environmental Management Plan
- Architectural Heritage Impact Assessment
- Design Landscape Appraisal
- Building Life Cycle Assessment Report
- Energy Analysis Report
- Site Lighting Report
- Utilities report
- Verified Views and CGI (Photomontages) Environmental Document
- Appropriate Assessment Screening Report

- Natura Impact Statement
- Volume I Environmental Impact Assessment Report – Non-Technical Summary
- Volume II Environmental Impact Assessment Report
- Volume III Environmental Impact Assessment Report - Appendices

3.0 LRD Opinion

- 3.1. The applicant has engaged with the Planning Authority in accordance with the provisions of Section 247(7) (a) and (b) of the Planning and Development Act 2000, as amended, and obtained a determination that no further consultation is required in relation to the proposed development. A section 247 meeting took place between the applicant and the Planning Authority on 12th September 2023, reference LRD0035/S1. A second pre-consultation meeting was held between the applicant and the Planning Authority on 11th December 2023 under Section 32B of the Planning and Development Act 2000, as amended, reference LRD0035/S2 and the application has been lodged within 6 months of this date as required under Section 32(2) of the Planning and Development Act 2000, as amended.
- 3.2. Following the pre-planning meetings, the Council issued an Opinion, in accordance with Section 32D of the Planning and Development (Large Scale Residential Developments) Act 2021 and advised that the documentation submitted for the purposes of the S32C meeting, in their current form did not constitute a reasonable basis for making an LRD application.
- 3.3. The Opinion identified six areas that required clarification, which are subsequently grouped into nine broad topics which seek that additional information be submitted alongside an LRD application for permission. These include:
 - Scale and massing, gable elevation treatment, visual impact, landscaping, UE confirmation of feasibility required, public open space, play provision proposals, conservation impact, design, water services, bicycle parking, Stage I Road Safety Audit, Construction Management Plan, boundary treatment, SUDs, archaeology and Part V.
- 3.4. The applicant submitted a Statement of Response with the planning application which addresses the matters cited by the Planning Authority in the LRD Opinion. The

proposed development as now submitted has taken account of all issues identified and provides a comprehensive response detailing adjustments that have been implemented to resolve the planning authority's concerns.

4.0 Planning Authority Decision

4.1. Decision

4.1.1. Fingal County Council issued a notification of decision to refuse permission for the following 2 no reasons:

- 1) *Having regard to its scale, form, massing and overall height, the proposed development would fail to respond to the baseline environment and surrounding historical and natural environment of the site which is located within a designated Highly Sensitive Landscape, the Buffer Zone for the Howth Special Amenity Area Order, adjoins Howth Castle Architectural Conservation Area and lands zoned for High Amenity in the Fingal County Development Plan 2023-2029, is part of the historic demesne lands of Howth Castle, a Protected Structure, and is in the vicinity of a number of other Protected Structures. The proposed development would be wholly inconsistent with the established character of this area, would be seriously injurious to the visual amenities of the area and would be detrimental to the character, setting and special interest of a number of protected structures including Howth Castle and St. Marys Church. The development would be contrary to Policy CSP22-Howth and Objective HCAO24 of the Fingal County Development Plan 2023-2029 and to the 'Urban Development and Building Heights Guidelines for Planning Authorities, 'Sustainable Residential Development and Compact Settlement Guidelines, and the 'Architectural Heritage Protection Guidelines for Planning Authorities' which were issued under Section 28 of the Planning and Development Act 2000, as amended. The proposed development would set a poor precedent for other similar development and would be contrary to the proper planning and sustainable development of the area.*
- 2) *Having regard to the overall scale and height of the proposed development with the transitions in height from the west of the site which is predominantly single storey, it is considered that the proposed development would be visually dominant within the immediate context in addition to being significantly intrusive on the*

skyline and on approach into and out of Howth village and when viewed from the surrounding areas, the landscape character of which being 'coastal' and being categorised as having an exceptional landscape value, with the objective being to protect skylines, horizons and ridgelines from development and to preserve the landscape types. The proposed development would be incongruous with the streetscape in which it would be proposed to integrate with and would contravene Objective GINHO55 - Protection of Skylines of the Fingal Development Plan 2023-2029 and Objective GINHO56 whereby the Visual Impact Assessment submitted was considered inadequate to fully assess the proposed development, and therefore materially contravene the RS and HA Zoning Objective of the site.

4.2. Planning Authority Reports

4.2.1. Planning Reports

4.2.2. The **Case Planner** considers that due to the sensitive setting of the site and the importance of this historic environment that this is not an appropriate location for large-scale and/or tall buildings. It is stated that the statutory designations and land zoning that border and include part of the site of Protected Structures, Special Amenity Area Buffer and High Amenity Lands all serve to emphasise that this is a special and unique place and so any development within the residential zoned section should not be overly dominant in scale or massing and should be appropriate to the historic local character of the place. The Case Planner recommended that permission be refused for 2 no reasons. The notification of decision to refuse permission issued by Fingal County Council reflects this recommendation.

4.2.3. Other Technical Reports

4.2.4. **Environment, Climate Action, Active Travel and Sports Department** –No objection subject to conditions.

4.2.5. **Water Services Department** – No objection subject to conditions relating to foul sewer, water supply and surface water.

4.2.6. **Heritage Office (Archaeological Report)** - No further archaeological requirements.

- 4.2.7. **Ecology** – No objection subject to the mitigation measures outlined in the EIAR and NIS being implemented in full.
- 4.2.8. **Public Lighting Section** – No objection subject to conditions.
- 4.2.9. **Transportation Planning Section** – No objection subject to conditions
- 4.2.10. **Conservation Officer** – The Architectural Conservation Officer cannot support the scheme as they do not consider the proposed scale and mass to be an appropriate response to the sensitive historic setting which is required by HCAP12, HCAP18, HCAP19, HCAO24, DMSO183 and direction within Table 14.21 on sensitive design approaches as set out in the Fingal Development Plan 2023-2029. Reference is also made to other Development Plan policy such as Policy CSP23 which looks to protect the Howth Special Amenity Area Orders (SAAO), including the Buffer zone, from residential and industrial development intended to meet urban generated demand. Refusal is recommended.
- 4.2.11. **Parks and Green Infrastructure Division** – Concern is raised that due to the proximity of the residential blocks to the retained trees the level of shading will be significant both as a result of ground level changes and tree height (this site context is not highlighted in the submitted Daylight & Sunlight Assessment). A further setback of buildings is required to reduce the likelihood of occupier-tree conflict, in particular along this southern boundary. In the event that permission is granted a number of conditions are recommended, including the following levy's and financial contributions:
- The Howth SAAO levy as per Objective 1.6 and Policy 1.6.1 of the Howth SAA Order shall apply at the Euro equivalent of IR£1,000 (€1,269.73) per unit at current Central Bank exchange rate of IR£1 = €1.26973. Therefore, the proposed development of 135no. units generates a Howth SAAO levy of €171,413.55. This levy shall be paid by the developer prior to the commencement of construction works.
 - There is a shortfall in the quantum of public open space generated through the development works of 3,413m² (2,560m² Class 1 and 853m² Class 2). Prior to the commencement of construction works, the developer is required to make up this shortfall by way of a financial contribution in lieu of the Objectives of the Fingal Development Plan (DMSO53).

- As the street tree is required to be removed for sightline purposes, prior to commencement the Council will calculate and agree a compensation amount with the developer for its removal and to plant a replacement street tree within the local area, as per Fingal's tree policy the 'Forest of Fingal'.
- A tree bond of €150,000 shall be lodged with the Council prior to the commencement of development to ensure that all retained trees included in the submitted Arboricultural Report are protected and maintained in good condition throughout the course of development. This bond will be held by Fingal County Council for a period of three years post-construction, which may be extended in the event of possible construction-related defects.

4.2.12. **NOTE Housing** – The Case Officer in their report refer to a report from FCC Housing Section noting that a Part V proposal was submitted in advance of lodging application and deemed acceptable with condition to be attached if permission is granted. This report has not been made available with the LRD Appeal file. However I note that a “validation letter” from the FCC Housing was submitted with the planning application stating that the applicant has made contact with the FCC Housing Section in respect of a proposal to satisfy their Part V application.

4.3. **Prescribed Bodies**

- 4.3.1. **DAA** – No comment other than to recommend consultation with the IAA and AirNav Ireland.
- 4.3.2. **Department of Housing, Local Government and Heritage** - Condition pertaining to Archaeological Monitoring be included in any grant of planning permission that may issue.

4.4. **Third Party Observations**

- 4.4.1. There are 9 no of observations recorded on the planning file from Maria Doyle, Jacqueline Feeley (Hillwatch), Christina Morris, Albert & Ruth Harding, Brendan & Siobhan Clifford, Roxanne White, O'Neill Town Planning, Howth Sutton Community Council and Alan Downey,

4.4.2. The issues raised relate to density, visual impact, impact to St Marys Church, almost 900 units granted of which 829 are one or two-bedroom units, does not meet Development Plan Objective SP6 H030 or the Apartment Development standards in the Development Plan, family sized units are required to meet the local community, encroaches on High Amenity lands, destruction of an ancient greenfield area, overdevelopment, traffic congestion, impact on adjoining residential properties, scale and density, traffic impact, inadequate parking, impact to local community, climate change and rising sea waters, scheme is a material and significant breach of all planning documents prepared for the area with particular reference to density and height, impact to existing historic demesne boundary wall, zoning objective for the site, impact to Howth Castle ACA, impact to residential amenity and that the previous decision was quashed by judicial review.

5.0 Planning History

5.1. LRD Appeal Site

- **308497-20** – SHD Consultation (Housing Act 2017) for 162 no. apartments and associated site works on lands to the west of the entrance to Howth Castle, Howth Road, Howth, Dublin 13. The Board determined that there was a reasonable application basis.
- **310413-21** – SHD Application (Housing Act 2017) for 162 no. apartments and associated site works at Deer Park, Howth, Co. Dublin. Decision to grant quashed by order of the High Court 4th December 2023. Section 3.5 of the Planning Statement that accompanied this LRD application provides a summary of the previous SHD application, and the subject proposal as follows:

| Development Standards | LRD | SHD |
|-----------------------|----------------|-------------|
| No of Units | 135 units | 113 units |
| Density | 122.7 units/ha | 97 units/ha |

| | | |
|--------------------------------------|---|---|
| Building Height | 3-5 storeys | 4-5 storeys |
| Site Coverage | 26% | 37% |
| Plot Ratio | 1.07 | 1.16 |
| Unit Mix Summary | 63 no. one bed apartments 72 no. two bed apartments. | 17 no. one bed apartments 80 no. two bed apartments 16no.three bed apartments |
| Car Parking | 63 surface car parking spaces | 90 spaces |
| Bicycle Parking | 410 bicycle spaces | 355 (325 no. basement long term stay and 30 no. ground short-term stay) |
| Communal Open Space | 890 sq.m (+ c.3,000sq.m of high amenity area) | 2,192 sq.m |
| Public Open Space | 1,676m ² | 1,161m ² |
| Quantum of Tree Removal | 227m ² | 1,385m ² |
| Vehicular & Pedestrian Access Points | 1 no. vehicular and 1 no. pedestrian points of access provided along Howth Road | 1 no. vehicular and 1 no. pedestrian points of access granted along Howth Road |

- **320310-24** - Application for inclusion of the land on the residential zoned land tax Final map 2024 at Deer Park, Howth, Co. Dublin. An Bord Pleanála confirmed the determination of the local authority.

5.2. Across the road to the North

- **246151 (Reg Ref F15A/0362)** - Glenkerrin Homes Limited granted permission on appeal for the demolition of industrial/commercial buildings and construction of 200 residential units, 6 commercial units, creche, community centre and all associated works at Howth Road, Howth, Co. Dublin.
- **304637-19** - SHD Consultation (Housing Act 2017) for 512 no. apartments, creche, 4 no. commercial units and associated site works at the former Techrete site, Howth Road, Howth, Co. Dublin. The Board determined that there was a reasonable application basis.
- **306102-19** - SHD Application (Housing Act 2017) for demolition of structures on site, construction of 512 no. apartments, childcare facility and associated site works at the former Techrete site, Beshoff Motors and Garden Centre, Howth Road, Howth, Dublin 13 was granted subject to conditions.
- **310275-21** - Demand for payment of vacant site levy at lands at Howth Road, Howth, County Dublin was cancelled.

6.0 Policy Context

6.1. National Planning Policy

6.1.1. Project Ireland 2040 - National Planning Framework

6.1.2. The NPF comprises the Government's proposed long-term strategic planning framework to guide national, regional and local planning and investment decisions over the next 25 years. Part of the vision of the NPF is managing growth and targeting at least 40% of all new housing in existing built-up areas of cities, towns and villages through infill and brownfield sites while the rest of new homes will be targeted on greenfield edge of settlement areas and within rural areas. The NPF also sets out a number of National Strategic Outcomes which include Compact Growth and Strengthened Rural Economies and Communities. These include:

- NSO 1 - Compact Growth
- NSO 7 - Enhanced Amenity and Heritage
- NPO 3a - Securing Compact & Sustainable Growth
- NPO 3c - Securing Compact & Sustainable Growth

- NPO 4 - Why Urban Places Matter (Community)
- NPO 5 - Why Urban Places Matter (Economy/Prosperity)
- NPO 6 - Why Urban Places Matter (The Environment)
- NPO 9 - Planning for Ireland's Urban Growth (Ireland's Towns)
- NPO 11 - Achieving Urban Infill/Brownfield Development
- NPO 13 - Performance-Based Design Standards
- NPO 32 - Housing
- NPO 33 - Housing (Location of Homes)
- NPO 34 - Housing (Building Resilience in Housing - Lifetime Needs)
- NPO 35 - Housing (Building Resilience in Housing - Density)

6.1.3. **Climate Action Plan 2024**

6.1.4. The Climate Action Plan 2024 sets out the measures and actions that will support the delivery of Ireland's climate action ambition. Climate Action Plan 2024 sets out the roadmap to deliver on Ireland's climate ambition. It aligns with the legally binding economy-wide carbon budgets and sectoral ceilings that were agreed by Government in July 2022. Ireland is committed to achieving climate neutrality no later than 2050, with a 51% reduction in GHG emissions by 2030. These legally binding objectives are set out in the Climate Action and Low Carbon Development (Amendment) Act 2021.

6.1.5. **National Biodiversity Action Plan (NBPA) 2023-2030**

6.1.6. The 4th 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 National Biodiversity Action Plan 2023-2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity
- Objective 2 - Meet Urgent Conservation and Restoration Needs
- Objective 3 - Secure Nature's Contribution to People
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity
- Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives

6.2. **National Guidance**

- Design Manual for Urban Roads and Streets (2013)

6.3. **Section 28 Ministerial Guidelines**

6.3.1. The following national policy, statutory guidelines, guidance and circulars are also relevant:

- Housing for All: A New Housing Plan for Ireland (2021)
- Rebuilding Ireland: Action Plan for Housing & Homelessness (2016)
- Appropriate Assessment Guidelines (2009)
- Architectural Heritage Protection Guidelines (2011)
- Childcare Facilities Guidelines (2020)
- Environmental Impact Assessment Guidelines (2018)
- Flood Risk Management Guidelines (2009)
- Regulation of Commercial Institutional Investment in Housing Guidelines (2021)
- Sustainable Urban Housing: Design Standards for New Apartments (2020)
- Urban Development and Building Heights Guidelines (2018)
- Best Practice Urban Design Manual (2009)
- Quality Housing for Sustainable Communities (2007)
- Circular Letter: NRUP 02/2021 (Residential Densities in Towns and Villages)

- Housing Circular 28/2021 (Affordable Housing Act 2021 - Amendments to Part V)
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)¹
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)
- Urban Development and Building Heights Guidelines for Planning Authorities (2018)
- Childcare Facilities Guidelines for Planning Authorities (2020)
- Guidelines for Planning Authorities on the Planning System and Flood Risk Management (2009)
- Part V of the Planning and Development Act 2000 Guidelines (2017)
- Local Area Plans Guidelines for Planning Authorities (2013)
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018)

6.4. Regional Guidelines

- 6.4.1. **Eastern and Midland Regional Assembly - Regional Spatial and Economic Strategy 2019-2031 (EMRA-RSES)**
- 6.4.2. The Strategy supports the implementation of Project Ireland 2040 and 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), Investment Framework and Climate Action Strategy. The Dublin MASP is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area.
- 6.4.3. **RPO 3.2** Promote 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.

¹ The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) have been revoked.

- 6.4.4. **RPO 3.3** notes 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 and brownfield regeneration sites and provide for increased densities as set out in the national policy.
- 6.4.5. **Regional Policy Objective 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 and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport.*
- 6.4.6. The site lies within the Dublin Metropolitan Area (DMA). The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas to ensure a steady supply of serviced development lands to support sustainable growth.
- 6.4.7. Section 5.3 identifies guiding principles for development of the MASP area including:
- Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply in order to achieve higher densities in urban built up areas, supported by improved services and public transport.*
- 6.4.8. **RPO 5.3** - *Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.*
- 6.4.9. **RPO 5.4.** - *Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities.*
- 6.4.10. **RPO 5.5** - *Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs and the development of Key*

Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

6.5. Development Plan

6.5.1. The operative plan for the area is the Fingal Development Plan 2023 – 2029.

6.5.2. Core Strategy and Settlement Hierarchy

Howth is identified as a 'Dublin City and Suburbs Consolidation Area' within the Metropolitan Area. The core strategy of the Development Plan outlines the overall hierarchy for the county with the intention that "each identified settlement centre will accommodate an agreed quantum of future development appropriate to its respective position in the hierarchy".

Policy CSP1 - Core Strategy - Promote and facilitate housing and population growth in accordance with the overarching Core Strategy to meet the needs of current and future citizens of Fingal.

Policy CSP2 - Compact Growth and Regeneration - Support the implementation of and promote development consistent with the National Strategic Outcome of Compact Growth as outlined in the NPF and the Regional Strategic Outcome of Compact Growth and Regeneration as set out in the RSES.

Policy CSP3 - Strategic Development Areas and Corridors - Support the economic development of Fingal in line with the policies and objectives stipulated in the National Planning Framework and the Regional Spatial and Economic Strategy and utilise active land measures such as provision of LAPs and masterplans across the County as part of the development approach for Strategic Development Areas and Corridors.

Objective CSO1 - Sufficient Zoned Land - Ensure that sufficient zoned land is available to satisfy the housing and population requirements of the County, as set out under the Ministerial Guidelines for Housing Supply and the Regional Spatial and Economic Strategy, over the lifetime of the Plan.

Objective SPQHO1 - Sustainable Communities - Ensure that proposed residential development contributes to the creation of sustainable communities and accords with

the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG 2009 (and any superseding document) and companion Urban Design Manual - A Best Practice Guide, DEHLG 2009 and the Design Manual for Urban Roads and Streets (DMURS) (as revised).

Objective SPQHO2 - Key Principles - Support development which enhances the quality of the built environment, promotes public health, and supports the development of sustainable, resilient communities. In particular development which supports the following key principles will be supported:

- Demonstrates compliance with the Guiding Principles for the creation of healthy and attractive places as set out in Healthy Placemaking, Regional Spatial and Economic Strategy 2019-2031.
- Promotes the development of healthy and attractive places to live, work, socialise and recreate through the delivery of high-quality public realms and open spaces which encourage physical activity and support wellbeing.
- Is inclusive of all members of society, all genders, non-binary or none, irrespective of age, or levels of mobility.
- Advocates a universal design approach and is socially inclusive. -Prioritises sustainable active transport modes.
- Encourages the development of car free neighbourhoods and streets, where appropriate.
- Contributes to our climate goals.

6.5.3. Zoning and Site-Specific Objectives

6.5.4. The subject site is affected by 2 no. land use zonings, the majority of the site is zoned RS, 'residential', the objective of which seeks *to provide for residential development and protect and improve residential amenity*.

6.5.5. The southern lands are zoned HA, 'High Amenity, the objective of which seeks to Protect and enhance high amenity areas and the southern part of the site is located within the Buffer Zone associated with the Howth Special Amenity Area.

6.5.6. Landscape Character - Coastal, highly sensitive landscape.

6.5.7. The application site is located within Noise Zone D associated with Dublin Airport.

6.5.8. The designated architectural heritage within the vicinity of the site are:

- RPS No. 556 Howth Castle (incl. wings, towers, stables & 19th century entrance gates)
- RPS No. 557 Church (in ruins), Grounds of Howth Castle
- RPS No. 594 St. Mary's Church of Ireland Church, Howth Road, Howth Demesne
- Howth Castle Architectural Conservation Area (ACA). The site adjoins the ACA.

6.5.9. ***Residential development:***

Objective SPQHO1 - Sustainable Communities - Ensure that proposed residential development contributes to the creation of sustainable communities and accords with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG 2009 (and any superseding document) and companion Urban Design Manual - A Best Practice Guide, DEHLG 2009 and the Design Manual for Urban Roads and Streets (DMURS) (as revised).

Objective SPQHO2 - Key Principles - Support development which enhances the quality of the built environment, promotes public health, and supports the development of sustainable, resilient communities. In particular development which supports the following key principles will be supported:

- Demonstrates compliance with the Guiding Principles for the creation of healthy and attractive places as set out in Healthy Placemaking, Regional Spatial and Economic Strategy (RSES) 2019-2031.
- Promotes the development of healthy and attractive places to live, work, socialise and recreate through the delivery of high-quality public realms and open spaces which encourage physical activity and support wellbeing.
- Is inclusive of all members of society, all genders, non-binary or none, irrespective of age, or levels of mobility.
- Advocates a universal design approach and is socially inclusive.
- Prioritise sustainable, active transport modes by e.g., providing safe cycle lanes and by facilitating public transport services in conjunction with State agencies to meet the needs of the community and to provide access to local services.

- Encourages the development of car free neighbourhoods and streets, where appropriate. Contributes to our climate goals.

6.5.10. The following policies and objectives are also relevant which include:

- Objective SPQH06 - Universal Design Approach
- Objective SPQHO11 - Housing Need
- Objective SPQHO12 - Fingal Settlement Strategy
- Policy SPQHP35 - Quality of Residential Development
- Objective SPQHO31 - Variety of Housing Types
- Objective SPQHO32 - Property Management:
- Objective SPQHO33 - New Residential Development and Energy Efficiency
- Objective SPQHO34 - Integration of Residential Development
- Objective DMSO19 - New Residential Development
- Objective DMSO22 - Daylight and Sunlight Analysis
- Objective DMSO23 - Separation Distance
- Objective DMSO24 - Apartment Development
- Objective DMSO26 - Separation Distance between Side Walls of Units
- Objective DMSO27 - Minimum Private Open Space Provision
- Table 14.8: Private Open Space for Houses
- Objective DMSO37 - Age Friendly Housing
- Objective DMSO71 - Overshadowing of Private Open Space
- Objective DMSO72 - Boundary Treatment to Private Open Space
- Objective DMSO73 - Balconies, Roof Terraces or Winter Gardens
- Objective DMSO74 - Screening of Private Open Space
- Objective DMSO75 - Communal Amenity Space
- Table 14.14: Open Space requirement for Apartment and Duplex Units
- Objective DMSO78 - Community and Social Infrastructure Audit

- Objective DMSO239 - Refuse Storage Areas
- Objective DMSO240 - Distance to Communal Bin Areas

6.5.11. **Green Infrastructure and Natural Heritage (Chapter 9)**

- **Policy GINHP12:** “Protect areas designated or proposed to be designated as Natura 2000 sites (i.e., Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), proposed Natural Heritage Areas (pNHAs), Natural Heritage Areas (NHAs), Statutory Nature Reserves, and Refuges for Fauna.”
- **Objective GINHO35:** “In accordance with Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities 2010, any plans or projects that are likely to have a significant effect on a Natura 2000 site, either individually or in combination with other plans or projects, are subject to a screening for Appropriate Assessment unless they are directly connected with or necessary to the management of a Natura 2000 site.

Objective GINHO55 – Protection of Skylines - Protect skylines and ridgelines from development.

Objective GINHO56 – Visual Impact Assessments - Require any necessary assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas.

Objective GINHO57 – Development and Landscape - Ensure development reflects and, where possible, reinforces the distinctiveness and sense of place of the landscape character types, including the retention of important features or characteristics, taking into account the various elements which contribute to their distinctiveness such as geology and landform, habitats, scenic quality, settlement pattern, historic heritage, local vernacular heritage, land-use and tranquillity.

6.5.12. **Heritage, Culture and Arts (Chapter 10)**

Policy HCAP12 - Interventions to Protected Structures - Ensure that direct or indirect interventions to Protected Structures or adjoining development affecting them are guided by architectural conservation principles so that they are sympathetic, sensitive and appropriate to the special interest, appearance, character, and setting of the Protected Structure and are sensitively scaled and designed.

Policy HCAP14 - Architectural Conservation Areas - Protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA.

Policy HCAP18-Designed Landscape Features, Settings and Views - Protect the setting, significant views, and built features of historic designed landscapes and promote the conservation of their essential character, both built and natural.

Policy HCAP19 - Development and Historic Demesnes - Resist proposals or developments that would lead to the loss, or cause harm to the character, principal components or setting of historic designed landscapes and demesnes of significance in the County.

Objective DMSO183 - Works to a Protected Structure - All planning applications for works to a Protected Structure shall have regard to the direction in Table 14.21 and provide the documentation set out in Table 14.22.

Within **Table 14.21: Directions for Proposed Development of Protected Structures** the following is stated:

A sensitive design approach is required for development that adjoins or is in close proximity to a Protected Structure as it could have a detrimental visual impact on it, adversely affecting its setting and amenity. The scale, height, massing, building line, proportions, alignment and materials of any development proposed within the curtilage, attendant grounds or in close proximity to a Protected Structure need to respect and compliment the structure and its setting. A statement should be provided as to how the proposal responds to the special interest and the setting of the Protected Structure.

Objective HCAO24 - Alteration and Development of Protected Structures and ACAs - Require proposals for any development, modification, alteration, extension or energy retrofitting affecting a Protected Structure and/or its setting or a building that contributes to the character of an ACA are sensitively sited and designed, are compatible with the special character, and are appropriate in terms of the proposed

scale, mass, height, density, architectural treatment, layout, materials, impact on architectural or historic features.

Objective HCAO25 - Architectural Heritage Impact Statement - Require an Architectural Heritage Impact Statement as part of the planning documentation for development that has the potential to affect the relationship between the Protected Structure and any complex of adjoining associated buildings, designed landscape features, or designed views or vistas from or to the structure. This particularly relates to large landholdings such as country estates, institutional complexes, and industrial sites where groups of structures have a functional connection or historical relationship with the principal building.

Objective DMSO184 - Architectural Heritage Impact Assessment - Where necessary, the Planning Authority shall require a detailed Architectural Heritage Impact Assessment for an application for works to a Protected Structure. This shall be carried out in accordance with Table 14.23 and Appendix B of the Department of the Arts Heritage and Gaeltacht's Architectural Heritage Protection Guidelines for Planning Authorities.

Policy CSP22 - Howth, Sutton and Baldoyle - Consolidate the development and protect the unique identity of Howth, Sutton and Baldoyle. This includes protection against overdevelopment.

Policy CSP23 - Howth SAAO - Protect the Howth Special Amenity Area Orders (SAAO), including the Buffer zone, from residential and industrial development intended to meet urban generated demand.

6.6. Natural Heritage Designations

- 6.6.1. The proposed development site is not within a designated conservation area.

6.7. EIA Screening

- 6.7.1. See Section 10.0 of this report below.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The first party appeal has been prepared and submitted by McCutcheon Halley Planning Consultants on behalf of GLL PRS Holdco Ltd against the decision by Fingal County Council to refuse permission and may be summarised as follows:

7.1.2. Response to Reason for Refusal 1

- The baseline environment is well understood by the design team and this has been documented and assessed as part of the suite of documents that accompanied the LRD application. It is acknowledged that the baseline surroundings include a sensitive historical and natural context as well as contemporary urban buildings such as the Claremont development. Reference is made to the Designed Landscape Appraisal, Architectural Heritage Impact Assessment and Cultural Heritage: Built Heritage chapter (Chapter 16) of the EIAR and the Landscape and Visual Impact chapter of the EIAR (Chapter 5). In addition, a supplementary Conservation Response and LVIA note have been prepared to accompany the appeal response.
- The proposed development is considered reflective of the approach to increasing density and heights indicated under the National Planning Framework (NPF) and within the Urban Development and Building Height Guidelines. These Guidelines mandate the applicant to deliver higher density development and to achieve this, a modest height ranging from 3-5 storeys is proposed having regard to the location of the proposed development site, its historic context, existing low rise to west and emerging high rise to the north. Principally, the Claremont development which is currently under construction to the north and north-east of the proposed development site provides a maximum height of eight (8) storeys.
- As depicted in the Landscape and Visual Impact chapter of the EIAR and the Supplementary Visual note provided at Appendix 3, it can be reasonably concluded that there will be no significant adverse effects on the landscape and visual amenity locally. An additional viewpoint from Muck Rock has been provided as part of the Supplementary Visual note which further demonstrates that in accordance with Policy 1.3.1 of the Howth SAAO, views from the Special Amenity Area will be

preserved. It is evident that as a result of the Claremont scheme, the townscape is now a fundamentally altered setting, where limited intervention, such as that proposed, can make a positive contribution whilst respecting views from the Special Amenity Area, the existing architectural heritage of Howth Castle grounds & ACA and St Mary's Church. It is reasonable to consider that in the absence of the Claremont scheme, the proposed development would be an appropriate intervention, albeit as per the cumulative assessments, the proposal is a strong positive addition to the existing environment.

- The proposed stepped pedestrian access is a positive intervention designed in line with best conservation practice, that is minor and does not negatively impact on the ACA or the integrity of the historic boundary wall and therefore should be retained.
- The proposed development has a good quality appearance and is located a significant distance away from St Mary's Church, on an elevated position over 100m to the east, and visibility of the proposed development will be restricted and possibly almost entirely obscured from the church. The approved Claremont SHD development is situated more proximate and opposite the church site and will already create a different character on this part of Howth Road. As a result, it is not considered to result in any negative impact on the setting of this Protected Structure. In relation to Howth Castle, the generous setbacks provided to the eastern boundary, the stepped heights provided to the blocks closest to the eastern boundary and the retention and addition of trees along the north eastern boundary reduce the associated negative impact upon the setting of the entrance to Howth Castle.
- The development is reflective of national policy which seeks compact growth on sites with good accessibility to public transport, services and employment. The proposed development is considered to respect and enhance the historic and architectural character of the area, would be acceptable in terms of urban design, height and the quantum of development and would not seriously injure the amenities of the surrounding area.
- The proposed development has been designed to take advantage of the site's location next to the coast and high-quality landscape views from open spaces and

residential units, where possible. This is achieved through the tiering down of scale to the north boundary, along the Howth Road and towards the west of the site to provide an appropriate relationship with historical sensitivities and to the east, cognisant of existing lower density residential developments. Similarly, the site offers an excellent opportunity for increased densities to make an important contribution to the shortfall in the private housing market and as such the opportunity for increased densities is responded to through the provision of increased height for the buildings.

- The proposal is not deemed an overdevelopment of the site, is not deemed contrary to Policy CSP22 and will make a significant positive contribution to the character and identity of the neighbourhood. The proposed development will transform an underutilised greenfield site to a residential neighbourhood of strong architectural design with significant public realm and landscape features which will positively contribute to enhancing the urban form and landscape of the area.
- The Council's assessment of the site doesn't acknowledge modern developments which impact negatively on its character, i.e. that the characterisation of the castle gates as a visual focal point at the entrance to Howth is flawed, as is the suggestion that the continuation of the existing low-rise linear development along the Howth Road is desirable or preferable to the proposed development. The proposal is in accordance with the Fingal County Development Plan and the above mentioned S28 Guidelines and further detail in this regard is provided in the relevant reports which accompanied the planning application and this appeal response.

7.1.3. Refusal Reason No 2

- The site is at the point of transition between the evolving town centre to the east and an area of residential use and predominantly suburban character to the west. The introduction of the residential scheme would complement the evolving pattern of land use in the area i.e. (a) filling a gap on the otherwise continuous strip of development along Howth Road, (b) increasing the density and sustainability of residential use in proximity to the town centre and Howth DART station, and (c) contributing to (in association with the Claremont scheme) establishing an appreciable edge between the town centre and the suburban area to the west. A suitable setback and transition in scale from those existing properties has been

provided, and assessments confirm no significant impacts arising thereby, confirming the appropriateness of this urban intervention.

- In terms of the historical character, a comprehensive analysis of the historic development of Howth Castle Demesne was carried out to properly identify its historic associations and visual relationships, and how it has been impacted by historic and modern developments. The analysis informed the development proposal which is a considered design response to the site, making use of unique built heritage and landscape features.
- In light of the second reason for refusal a Supplementary Visual Note was prepared as part of the appeal response. This is in addition to the Landscape and Visual Impact and Appendix 5.1 Visual Assessment of the EIAR provided as part of the LRD planning application.
- The LVIA which accompanied the planning application took into consideration the comments provided by Fingal County Council as part of the LRD Opinion and provided the additional requested viewpoints. A full assessment of each of the views formed part of the final planning application documentation.
- The LVIA chapter, provided as part of the EIAR, submitted with the application uses an industry-accepted methodology. Views towards the site are established and agreed upon in principle with the planning authority; photographers take accurate visual representations (verified views) and layer the real-life photography with computer-generated images/models and draw a comparison of the views relating to the existing baseline scenario and the proposed development.
- The Planning Authority outsourced the review and appraisal of the EIAR. As part of this assessment of Chapter 5 Landscape and Visual Impact Assessment, the following conclusions were drawn in relation to the LVIA chapter:

| EIAR Review – Landscape & Visual | |
|---|---|
| Heading | Conclusion |
| Receiving Environment | The baseline landscape and visual environment has been comprehensively defined and characterised. |

| | |
|--------------------------|---|
| Impact Assessment | <p>The impact assessment is deemed to be appropriate, reasonable and accurate. The potential effects from the development have been appropriately characterised and presented, having regard to the following:</p> <ul style="list-style-type: none"> ▪ Embedded mitigation measures associated with the project. - Proposals to retain existing treelines and hedgerows that contribute to the qualities and good aesthetic of the existing environment. ▪ The photomontages prepared for the proposed development and the likely views toward the development site from identified viewpoints. ▪ The surrounding context including the development at Claremont (which is significantly larger in scale than the subject proposed development) which sets a precedent for development character in the vicinity of the proposed development. |
| Cumulative | <p>The conclusions drawn are deemed to be appropriate and reasonable.</p> |
| Mitigation | <p>The range of mitigation measures defined for the proposed development are deemed to be appropriate.</p> |
| Residual Impacts | <p>Residual impacts have been appropriately and accurately characterised. It is fair and reasonable to conclude the operational phase of the proposed development will have a positive effect on landscape and visual conditions given its high quality design. The proposed development is not predicted to generate any adverse effects either</p> |

| | |
|---|--|
| | on its own or in combination with other development. |
| Interactions | Satisfactory |
| Satisfactory | Yes |
| Compliant with Planning Policy and Environmental | Yes |
| Deficiencies Identified | None |

- It is unclear to the Applicant how the Planning Authority reached the conclusions it did in light of the clear and unambiguous findings of an external EIAR review that confirm the findings in our EIAR.
- Based on the commentary provided within the Planner's report, it was outlined that a viewpoint from Muck Rock had not been provided. Viewpoint 19 of the submitted LVIA provided a viewpoint from the Rhodendrum garden located to the west of Deer Park Hotel and Golf course. Given the difficulty accessing Muck Rock, viewpoint 19 was deemed appropriate albeit the level was slightly lower than that of Muck Rock.
- Notwithstanding this, an additional verified view has been prepared in proximity to Muck Rock, albeit at a higher location, given the accessible nature of this location. The Supplementary Visual Note refers. It is considered that the Landscape and Visual Impact report which accompanied the planning application together with the supplementary note provides a comprehensive and robust assessment of the visual impact of the proposal, particularly the views towards the site which will not result in any significant or negative effect on the local or wider landscape.
- Therefore, the development does not contravene Objective GINHO56 Visual Impact Assessments. Further there is no contravention of either the 'RS' or 'HA' zonings, let alone a material contravention
- Submitted that Fingal County Council have not interpreted correctly the comprehensive and detailed information provided as part of the LVIA which accurately determined that the impact of the proposal is not significant and the viewpoints were provided, as requested by Fingal County Council, as part of the

LRD Opinion. Additionally, given the nature of the Planning Authority's assessment of the Landscape and Visual Impact Assessment chapter, Objective GINHO55 and Objective GINHO56 are not contravened and ultimately the proposed development does not materially contravene the 'RS' and 'HA' zoning.

7.1.4. The proposed development will:

- contribute to the delivery of much needed housing at a site that is in a highly accessible location i.e. 400m from Howth Dart station and in the immediate vicinity of bus services
- provide a sustainable strategy for development which encourages increased densities at accessible locations, enabling the use of sustainable modes of transport and reduced car dependency
- provide an appropriate mix of units catering to a range of people at varying stages of the lifecycle, responding to the existing need in Howth
- provide an architectural design approach that integrates historic, and contemporary architecture and landscaping with overall coherence and integrity
- achieve a balance between the consolidation of the built environment and protection of the surrounding features of exceptional heritage value
- enhance permeability and connectivity between Howth town centre and the site
- facilitate an enhanced network of public open space and provide an opportunity to increase access to high amenity lands
- facilitate the construction of new homes which provides a contiguous and compact form of development, which is of an appropriate scale and density
- is in accordance with national and regional planning policy which supports development of this type i.e. compact growth on sites well serviced by transport and services infrastructure whilst acknowledging and responding to the site context.

7.1.5. The following accompanied the appeal:

- Appendix 1 - Notice of Decision (Fingal County Council)
- Appendix 2 - Preliminary Viewpoint Locations

- Appendix 3 - Supplementary LVIA Note
- Appendix 4 - Response prepared by Landscape Architect
- Appendix 5 - Conservation Response
- Appendix 6 - Breeding Bird Survey July 2024
- Landscape Section – Southern end of Block D

7.2. Planning Authority Response

7.2.1. Fingal County Council submitted the following comments as summarised:

- Concerns and considerations of the Conservation Office remain that the scale and mass of the proposal is not an appropriate response to this sensitive historic setting within lands that form part of a historic demesne of national significance (the lands fall within the attendant grounds of the Protected Structure of Howth Castle).
- The proposal has been assessed on this basis and is informed by the direction given in Section 13.7 of the Architectural Heritage Protection Guidelines for Planning Authorities regarding development within the Attendant Grounds of a Protected Structure (including the considerations 13.7.2 (g)(i)(j)).
- It is not appropriate, that the development of these lands should respond to the development of the emerging Claremount site (the former Techrete site) and that the proposed scheme, of predominately 5-storeys on an elevated contour from the road level, should present as the southern element to the entrance to the town centre. Howth Castle Demesne has and should continue to form the defining and distinctive character of the approach into Howth. Therefore, any development within the zoned lands needs to be of an appropriate scale.
- Section 3.4.2 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities states that it is 'necessary to ensure that the quantum and scale of development at all locations can integrate successfully into the receiving environment.
- The Planning Authority acknowledges the development potential of the lands within the RS Zoning Objective however the site is sensitive and therefore constrained. The design response was not considered appropriate.

- An Bord Pleánala is requested to uphold the decision of the Planning Authority to refuse permission.
- In the event that this appeal is successful, provision should be made in the determination for applying the following:
 - 1) financial contribution and/or a provision for any shortfall in open space and/or any Special Development Contributions required in accordance with Fingal County Council's Section 48 Development Contribution Scheme.
 - 2) inclusion of Bond/Cash Security for residential developments of 2 or more unit
 - 3) tree bond or a contribution in respect of a shortfall of play provision facilities are required

7.3. Observations

7.3.1. There are 7 no observations recorded on the appeal file that may be summarised as follows:

- 1) **Maria Doyle** – supports the refusal, inconsistent with established character of the area, visual impact and impact to a number of protected structures including Howth Castle.
- 2) **Christina Morris** – permission should be refused as decision LRD0035/S3 is cogent and entirely sustainable and legal positions that favour the appellant continue to apply.
- 3) **Alan Downey** – supports the refusal and notes this is a similar application to that previously brought to the Board,
- 4) **Eamonn Augustine O'Duibhgeannain** – scale and scope of scheme is out of place with surrounding environment, inadequate infrastructure and amenities, impact of changing demographic and construction impact.
- 5) **Hillwatch** – supports the refusal, visual impact, development does not address the shortage of affordable family homes in the area and does not comply with the objectives of the Development Plan.
- 6) **Roxanne White** – supports the refusal, visual impact, zoning, ACA, NIAH Listed and Protected Structures, Protected Views, flooding, erosion, rising sea level and

risk to infrastructures, ecology, trees and biodiversity, light pollution and window glass glare.

- 7) **Michael O'Neill** – scheme breaches the core strategy, materially contravenes the zoning for the site, the site is attendant lands to a number of important Protected Structures and on a historic landscape buffer to the SAC, the site is not a brownfield site, the scheme contravenes Objective GINHO55 and GINHO56, inadequate provision of 3 bed units, scheme destroys the environmental, visual and historical entrance to Howth Village, poor and uncompromising match with the existing character and pattern of residential development in the area and the scheme cannot be compared with the Techrete site.

7.4. Further Responses

- 7.4.1. None

8.0 Assessment

- 8.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Refusal Reason No 1 - Impact to Historical & Natural Environment
- Refusal Reason No 2 - Visual Impact
- Conditions

8.2. Principle

- 8.2.1. The proposed development comprises 135 apartment units, including public and communal open space and landscaping, access, drainage infrastructure and parking on a 1.53-hectare greenfield site and is located in Deer Park, Howth, to the south of the Howth Road (R105), and to north-west of Howth Castle. The site (1.53 ha) comprises 1.10ha which is zoned for residential development. The proposed residential development is confined to the residential zoning. The balance of the

application area (3,116 sq.m) is zoned high amenity (HA) and comprises managed amenity grassland together with densely covered trees with an east-west alignment. The lands zoned HA also form part of the buffer area for the Howth Special Amenity Area Order (SAAO) and no development is proposed in this location. This designation recognises the area's natural beauty, its special recreational value, and the need for nature conservation within the area. A small portion of the residential zoned land is also located within the SAAO boundary in the southeast of the site. In addition a portion of the site falls into the Howth Castle ACA. The boundary of the ACA was limited to a core area surrounding Howth Castle and the entrance and the majority of the proposed development site does not form part of this designated area, with the exception of 102sq.m in the north eastern corner of the site.

- 8.2.2. It is important to note the sites proximity to existing and proposed public transport infrastructure. Howth DART station is less than 500m (5-minute walk time) from the site. The DART operates a service to the city centre every 12 to 15 minutes during the morning peak time. The Dublin Bus services in the area provide direct linkage to the city centre, most notably the H3 and the 6 routes along Howth Road towards the city centre. Howth Village and Sutton Cross are easily accessible on foot, by bike or on public transport. A cycle lane traverses the front of the site along the bus corridor on the Howth Road, linking the Site to Sutton Cross and onwards towards the city centre.
- 8.2.3. In terms of future public transport, the DART+ Coastal North Project rail improvement project will provide an extension of the existing electrified rail network from Malahide to Drogheda MacBride stations and will provide the infrastructure to facilitate an increase to the rail capacity on the Northern Line between Dublin City Centre and Drogheda MacBride Station, including the Howth Branch. Following project implementation, the number of peak time services at Howth railway station should double to c. 10-minute headways.
- 8.2.4. In addition to the good public transport Howth offers amenities including the Hill of Howth loop walks, Claremont Beach, the Martello Tower Museum, Balscadden Bay Beach and the town centre which provides an array of services for daily needs. The proposed development site is also located close to local childcare facilities, primary and secondary schools and sporting facilities such as Scoil Mhuire primary school, Santa Sabina Dominican College, Deer Park Golf club, Baltray Park Tennis Club,

Howth yacht club and Suttonians Rugby Club. Further details in relation to the capacity of the existing and proposed childcare facilities and schools is provided for in the Childcare Demand Assessment and the School Demand Assessment, under separate cover.

- 8.2.5. Having regard to the land use zoning objectives as set out in the current Fingal Development Plan (FDP) together with the sites location within walking distance of a town centre, Howth, that is within Dublin City & Suburbs, the fact that the site is served by Dublin Bus and DART services, with the DART station located less than 500m from the proposed development site; and the sites access to high quality open space amenities locally and social infrastructure, I am satisfied that the proposed residential uses are acceptable at this location and aligns with National, Regional and Local land use policy.
- 8.2.6. Community open space is located within the central portion of the site, between the two buildings. The separation of the 2 masses allows for entrances on both sides and caters for the addition of a central communal green space with passive surveillance for users. This central communal courtyard garden is defined between the two buildings with a retractable roof pergola allowing for social gatherings and protection from the weather. A combination of hard and soft landscaping is proposed. It is envisaged that this space will be useable all year round and will create a safe space for residents of all ages to interact whilst providing a level of passive surveillance within the communal open space area.
- 8.2.7. The public open space is proposed to the northeast of the site and comprises a series of spaces such as a kick about space, seating areas, lawns and accessible space with a quiet corner cabin. The public open space is sheltered to the north and east by the historic demesne wall. The space is designed as a gated public garden to allow free movement throughout the space from dawn to dusk. Access to the public open space will be provided with openings in the existing demesne stone wall along Howth Road to enable public access and permeability through the site. This area is proposed to be taken in charge.
- 8.2.8. There is an existing tree belt located along the southern boundary of the proposed development site. To provide working space to the outside of Block D, a 5 m setback is proposed, which requires the removal of trees from the existing tree line. This

setback will allow sufficient space for construction activities to progress. It is noted that the position of Block D is cognisant of the root protection areas of the retained trees and includes these within the design of the proposed reinforced grass path. The loss of trees will be offset by additional planting in this location and around the site. A net increase of approx. 269 trees is proposed throughout the site, including supplemental planting along the eastern boundary which will act as a natural extension to the historic demesne woodlands.

- 8.2.9. The open spaces are linked using a shared surface approach to facilitate pedestrian/cyclist movement and permeability.
- 8.2.10. The areas of private and communal open space are centrally located in easy walking distance of all residential units. The open space incorporates a playground and is overlooked by dwellings on all sides for active supervision. Ample passive surveillance is provided throughout the development. The public open space is well defined with a visually light solid bar railing with planting creating a secure physical barrier that allows visual and spacial continuity.
- 8.2.11. Each dwelling is provided with an area of usable private open space which meets or exceeds the Development Plan standards. For apartments this is generally a private balcony space, while ground floor units have terrace spaces with a planted buffer. The distance between directly facing apartments is +26m, ensuring that privacy is maintained. Balconies that are located close to adjacent windows have a opaque privacy screens to prevent views into other units. Private ground floor terraced areas are separated from the semi-private spaces around the building with buffer planting to ensure private amenity is preserved.
- 8.2.12. Overall, I am satisfied that the public and private open space provision is satisfactory in terms of qualitative and quantitative standards. Concerns raised in relation to the shortfall in communal open space is also discussed separately in Section 8.5 Conditions below.
- 8.2.13. Further requirements set out for the site in the current Development Plan, National Guidance and the relevant Section 28 Guidelines are addressed as follows. In light of the detailed reasons for refusal matters relating to height and density are discussed in Section 8.3 below.

- The design and layout of the blocks ensures the development will not appear monolithic. The varying heights of the proposed buildings break up the mass and volume of the scheme, transitioning from the lower heights along more sensitive boundaries. The proposed buildings address both the external streets as well as the internal public and communal open spaces.
- A 'slip' or offset staggered approach to the layout of the buildings footprint increases the capacity for scenic views and daylight while enhancing dual aspect. The set backs at 4th floor and the stepping down of Block D also allows for a greater number of apartments to benefit from a dual aspect. 100% of habitable rooms of every apartment meets daylight requirements. Additionally, the communal open space which benefits from a southerly aspect exceeds the sunlight requirement in the BRE guidelines.
- The design rationale is detailed in the submitted Architectural Design Statement. I also refer to the Visual Assessment submitted with the application that concludes that the proposed development will not be unduly obtrusive or detract from the character of the wider area. I consider the design approach, elevational treatment and layout to be acceptable having regard to the nature of the proposed site and proximity to the coast. Please note that the visual impact with regard to the ACA and Protected Statutes etc is discussed in further detail in Section 8.3 and 8.4 below.
- A full schedule of areas is submitted as part of the Housing Quality Assessment accompanying this application. All of the proposed apartments meet or exceed the minimum standards for apartments as set out in the Sustainable Urban Housing: Design Standards for New Apartments 2020. A variety of unit types will be available within the development, with 1 and 2 bed units varying between 47.4sqm - 52.9sqm for 1 bed units and 74.5sq - 81.5sqm for 2 bed units. I note that the overall Howth area provides many single family homes so it is considered that these apartment units will support a more varied community and therefore no issues arise in this regard. The apartment layouts follow the principals of Universal Design
- Both sides of each building are activated with entrances, and a permeable network of pathways provides logical routes for pedestrians to access amenities and

facilities. Refuse stores can be accessed from either side of each building to reduced the distance residents have to travel.

- I refer to the DMURS Statement of Consistency. Proposed routes follow the principles of DMURS ensuring that traffic speeds are minimised and that the pedestrian is favoured. I am satisfied that a DMURS compliant road, footpath and cycle network which provides a hierarchy of streets and connectivity with adjoining lands where appropriate given the nature of the site has been proposed and is therefore acceptable.
- Vehicular movement is limited to the western side of the site and parking is efficiently designed close to the main entrance to limit the distance vehicles can enter the site. Street trees break down the visual appearance of parking in accordance with the guidance set out in DMURS.
- 63 no car parking spaces and 6 no motorcycle spaces serve the development. Parking bays are laid out with a maximum of 6 no perpendicular spaces separated by street trees to reduce the visual appearance. Parked cars are overlooked by apartments and located within easy reach of entrances. Parking is provided communally to maximise efficiency with EV charging points for 16 no spaces (+20%) and space for EV ducting for every other space.
- 410 no bicycle parking spaces serve the development. There is a variety of bicycle parking supplied across the site in the form of; 168 no short term Sheffield stand spaces, 28 no bicycle lockers, 18 no accessible/oversized bicycle spaces and 296 no stacked bicycle spaces. The bicycle lockers are located near to the entrance of each block. The variety of cycle parking provided, quantum, location and layout is acceptable.
- Concerns raised in the observations regarding light pollution and window glass glare are noted. Where appropriate these matters are discussed in the Biodiversity section of the EIA below. In terms of impact to residential amenity I am satisfied that taken together with the design and location of the scheme that no significant issues arise in this regard.

8.2.14. It is proposed to access the proposed development via the construction of a priority-controlled T-junction in addition to a right-hand turning lane on the existing R105 Howth Road. The proposed priority-controlled junction on the R105 Howth Road with 49m Sightlines achieved in both directions in accordance with Tabel 4.2 of DMURS,

will result in a slight change to the bicycle lane currently present on R105 Howth Road. As the 50kph speed zone on the R105 Howth Road is the inherent constraint on overtaking in an urban environment, the western sightline is presented as an Alternative Visibility Splay of 49m to the centre of the road in order to preserve the existing young tree at the junction. I am satisfied that the proposed development is compliant with the connectivity objectives of DMURS and that no issues arise in relation to traffic impact

8.2.15. Two further active travel (pedestrian/cyclist) accesses are proposed in the centre and eastern parts of the northern boundary wall. These entrances will require openings to be made in the demesne wall. The remainder of the existing demesne wall which traverses the northern and eastern boundary will remain in-situ and works will be undertaken to ensure its conservation.

8.2.16. I am satisfied that the layout and design of the scheme demonstrates significant consideration to its context and receiving environment. The development is separated from existing low density residential development to the west by the proposed at grade car parking and sufficient separation distances are proposed to ensure that no impacts in terms of visual, amenity or privacy will occur as a result. The Daylight & Sunlight Assessment demonstrates that the proposed Blocks A and C, located closest to the existing dwellings to the west of the proposal will retain sufficient levels of amenity in terms of sunlight to gardens, daylight within dwellings, and sunlight to PV panels and is therefore compliant with the BRE standards. As such, the proposed development will not negatively affect existing residential properties.

8.2.17. The proposal has been designed in accordance with the provisions of the Fingal County Development Plan and all relevant Guidelines. It represents a positive and sustainable use of zoned, serviced and highly accessible lands. Accordingly, the principle of the scheme is acceptable at this location.

8.3. Refusal Reason No 1 - Impact to Historical & Natural Environment

8.3.1. Fingal County Council in their first reason for refusal set out the following as summarised:

- The scale, form, massing and overall height of the proposed development would fail to respond to the baseline environment and surrounding historical and natural

environment of the site which is located within a designated Highly Sensitive Landscape, the Buffer Zone for the Howth Special Amenity Area Order, adjoins Howth Castle Architectural Conservation Area and lands zoned for High Amenity in the Fingal County Development Plan 2023-2029, is part of the historic demesne lands of Howth Castle, a Protected Structure, and is in the vicinity of a number of other Protected Structures including Howth Castle and St. Marys Church.

- The development would be contrary to Policy CSP22-Howth and Objective HCAO24 of the Fingal County Development Plan 2023-2029 and to the 'Urban Development and Building Heights Guidelines for Planning Authorities, 'Sustainable Residential Development and Compact Settlement Guidelines, and the 'Architectural Heritage Protection Guidelines for Planning Authorities'.
- The proposed development would set a poor precedent and would be contrary to the proper planning and sustainable development of the area.

8.3.2. This is a detailed reason for refusal and therefore I will address the issues raised in sequence under the following subheadings. The overall assessment should be read and considered together with the relevant sections of the EIA below as many of the issues identified in the reasons for refusal overlap.

8.3.3. ***Scale, form and massing***

8.3.4. The proposed development is being delivered in an existing, well-developed area, adjacent to another significant development which includes a mix of uses including retail units and a creche.

8.3.5. The proposed height ranges from 3-5 storeys with the lower height (3 storeys) provided for Block D closest to the eastern boundary of the adjoining ACA. The front volumes range from 4-5 storeys in height with setbacks ranging from 4.4m - 7.1m provided for the upmost level of the buildings as they front Howth Road.

8.3.6. Blocks C and D are setback between 19-24m from the north-eastern and eastern boundary, behind the existing mature tree belt that lines the Howth Castle entrance, that is proposed to be further reinforced via the inclusion of additional trees within the proposed development site. The rear volume of Block D, located closest to the eastern boundary and Howth Castle gates, steps down to 3 storeys ensuring the appearance that the built form, does not dominate the entrance to Howth Demesne.

8.3.7. I am satisfied that the proposed development has been designed to take advantage of the site's location next to the coast and landscape views from open spaces and residential units, where possible. This is achieved through the tiering down of scale to the north boundary, along the Howth Road and towards the west of the site to provide an appropriate relationship with historical sensitivities and to the east, cognisant of existing lower density residential developments.

8.3.8. I consider the scale, form and massing of the proposal to be appropriate for this site considering its accessible location, the residential zoning of the site, the existing pattern of development in the immediate area. Overall, the scheme represents a sympathetic response to this site. Further consideration of the sensitive landscape adjoining the site is set out below.

8.3.9. ***Highly Sensitive Landscape***

8.3.10. As set out in the Urban Development and Building Heights Guidelines for Planning Authorities (2018) *historic environments can be sensitive to large scale and tall buildings and that an examination of the existing character of a place can assist planning authorities, and others to establish the sensitivities of a place and its capacity for development or change and define opportunities for new development and inform its design*".

8.3.11. To this end I am satisfied that the impacts on this highly sensitive landscape and the setting of Howth Castle Gate, St Marys Church and Howth Castle ACA are acknowledged. The built heritage characteristics and receiving environment, including protected structures and ACAs have been comprehensively identified and described in the Architectural Design Statement, the Designed Landscape Appraisal, Chapter 16 of the EIAR Cultural Heritage: Built Heritage, Statement of Consistency, the LRD Opinion and the Verified Views and CGIs. The impacts of the scheme are discussed throughout this assessment.

8.3.12. ***Buffer Zone for the Howth Special Amenity Area Order (SAAO)***

8.3.13. Howth Special Amenity Area Order (SAAO) encompasses 547 hectares. It includes Ireland's Eye (28 hectares) and the heathland, woods, cliffs, shingle beaches and wooded residential areas of the southeastern half of the Howth peninsula (519 hectares). The southern portion of the site is located within the Buffer Zone of this SAAO. This designation recognises the area's natural beauty, its special recreational

value, and the need for nature conservation within the area. A small portion of the 'RS' residential zoned land is located within the SAAO boundary in the southeast of the site, and the 'HA' zoned land is entirely located in the SAAO buffer area. The proposed development, therefore, includes the construction of new buildings within the residential zoned SAAO buffer area, albeit only partly and forming the back portion of Blocks B and D.

8.3.14. The core settlement strategy for Howth in the Development Plan indicates a figure of 500 potential residential units. In alignment with the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES), the FDP identifies approx. 20 hectares of residential zoned land in Howth, including the appeal site. It is noted that this residential zoning crossing into the SAAO was carried forward from the previous development plan.

8.3.15. Having regard to the SAAO and given the retained zoning by Fingal County Council as evidenced within the current Fingal County Development Plan 2023-2029 I am satisfied that the proposed scheme will not have a significantly negative impact on the Howth SAAO or its buffer zone and the built form will be wholly contained within the residential zoned land. Further the proposed landscape scheme will seek to preserve and enhance the SAAO as it will enhance the level of landscaping and quantum of trees proposed within the site. I am satisfied that no issues arise with regard to impact to the Buffer Zone for the Howth Special Amenity Area Order (SAAO).

8.3.16. *Howth Castle Architectural Conservation Area*

8.3.17. The landscape associated with Howth Castle is designated as an Architectural Conservation Area under Fingal Development Plan and described in the ACA Statement of Character. Recognising that much of the demesne lands have been altered to accommodate the golf course and proposed hotel complex, the boundary of the ACA was limited to a core area surrounding Howth Castle and the entrance off Howth Road.

8.3.18. The site is within the historic demesne of Howth Castle, and the historic estate walls encloses it along its northern and eastern boundaries. This is the only feature of built heritage existing in the site. The northern boundary wall of the site is not listed on the Record of Protected Structures within the Fingal County Development Plan 2023-2029. There is no existing pedestrian or vehicular access to the site from Howth Road.

Given the level differences located at the northeastern corner, a small portion of the proposed development site is partially located in the ACA (102sq.m) where works are limited to the provision of a stepped pedestrian access and upgrades to the footpath.

8.3.19. Sensitively designed openings are proposed in the northern demesne wall to facilitate access and permeability. The vehicular access point (8m) is proposed from Howth Road on the western side of the northern boundary. Two further openings (3m (accessible) & 1.5m (stepped)) are proposed in the wall to facilitate active travel pedestrian/cyclist and accessible movements. The openings are proposed in the centre and eastern parts of the northern boundary wall.

8.3.20. The proposed stepped pedestrian access located within the ACA is a positive intervention that does not negatively impact on the ACA as a whole or the integrity of the historic boundary wall. Taken together with my wider assessment of the proposed development I am satisfied that the scheme will not detract from the Howth Castle Architectural Conservation Area.

8.3.21. *Lands zoned for High Amenity*

8.3.22. The land zoned 'HA' will be retained as amenity grassland and residents of the proposed development can gain access to this area. In doing so, the proposed development demonstrates compliance with Policy GINHP28 - Protection of High Amenity Areas of the Development Plan in that it will '*protect High Amenity areas from inappropriate development and reinforce their character, distinctiveness and sense of place*'.

8.3.23. I am satisfied that the use of the High Amenity zoning for amenity space is consistent with the 'HA' zoning objective and vision as it will preserve and enhance this space whilst unlocking this currently inaccessible space. It is also noted that this amenity space does not form part of the public open space or communal open space calculation and has been provided in addition to these amenity spaces. I am satisfied that the scheme aligns with the requirements for lands zoned for High Amenity.

8.3.24. *Howth Castle and St. Marys Church*

8.3.25. This section should be considered in line with Section 8.3.41 *Urban Development and Building Heights Guidelines for Planning Authorities* below where visual impact is discussed in greater detail.

- 8.3.26. The proposed development site is approx. 115m northwest of Howth Castle (RPS ID0556) and approx. 100m west of St Mary's Church (RPS ID 0594), both of which are identified as protected structures in the FDP. The impacts on the setting of Howth Castle Gate, St Mary's Church and the Howth Castle ACA are acknowledged.
- 8.3.27. The site is immediately south of Howth Road and west of the entrance to Howth Castle. The site is screened from view from Howth Castle by existing historic planting and by planting later established as part of the golf course. There are prominent views of the castle from Muck Rock in which the subject site features in the background but visually separated from the castle by the aforementioned planting.
- 8.3.28. St. Mary's is an imposing Gothic-Style gable fronted church which sits on a sharp rise, above the road at entrance to the village of Howth. Its prominence is heightened by the 80m bell tower on the entrance elevation. The subject site is to the west of the church. It forms part of the views towards the church from the west, which is identified in the Statement of Character for the Howth Castle ACA. It is also prominent in the views leaving the churchyard.
- 8.3.29. As demonstrated in the submitted Verified Views and CGIs which accompanied the planning application, the introduction of carefully positioned, high-quality modern buildings, combined with the repair of the existing demesne wall, the retention of existing planting and the proposed landscape scheme can have a neutral or positive impact. I am satisfied that no significant negative impacts were identified on the existing protected built heritage resource as a result of the proposed development.
- 8.3.30. Taken together with my wider assessment of the proposed development and in particular Section 8.3.44 *Urban Development and Building Heights Guidelines for Planning Authorities* below I am satisfied that the scheme will not detract from either Howth Castle or St. Marys Church.
- 8.3.31. **Policy CSP22-Howth**
- 8.3.32. Policy CSP22 - Howth, Sutton and Baldoyle - *Consolidate the development and protect the unique identity of Howth, Sutton and Baldoyle. This includes protection against overdevelopment.*
- 8.3.33. The site proposes a density of approx. 123 units per hectare, which is consistent with the Compact Settlement Guidelines and provides site coverage of 26%, demonstrating

the high quantum of landscaping provided on-site. A series of verified views demonstrates that the scale of the proposed development responds positively to the site's sensitive context. Adequate separation distances are provided to both the low density residential development to the west and the sensitive historical context and ACA to the east. The Daylight & Sunlight report demonstrates that the scale and height of the proposed development does not have any significant negative impact on the internal or external environment in terms of overshadowing or daylight/sunlight impact.

8.3.34. The proposal is not considered to be an overdevelopment of the site and is not therefore deemed contrary to Policy CSP22. The proposed development will transform an underutilised greenfield site into a suitably designed residential development which will positively contribute to enhancing the evolving urban form and landscape of the area.

8.3.35. **Objective HCAO24**

8.3.36. Objective HCAO24 - Alteration and Development of Protected Structures and ACAs - *require proposals for any development, modification, alteration, extension or energy retrofitting affecting a Protected Structure and/or its setting or a building that contributes to the character of an ACA are sensitively sited and designed, are compatible with the special character, and are appropriate in terms of the proposed scale, mass, height, density, architectural treatment, layout, materials, impact on architectural or historic features.*

8.3.37. This section should be considered in line with Section 8.3.41 *Urban Development and Building Heights Guidelines for Planning Authorities* below where visual impact is discussed in greater detail.

8.3.38. I refer to the Architectural Heritage Impact Assessment submitted with the application. I am satisfied that the design for the site, and the layout and height of the proposed buildings has been carefully considered with regard to the impact of the proposed works on the built heritage features of the site, and the visual impact of the development on the sensitive setting of neighbouring protected structures, the Howth Castle ACA and other significant views and vistas within the receiving environment. The massing strategy balances the requirement to create a strong architectural

presence at the gateway to the village of Howth, with the sensitivities of the demesne landscape.

8.3.39. In addition, the proposed buildings are set back from the site boundaries which will facilitate the retention of existing significant trees. Existing boundary planting will be supplemented with new planting, especially along the east boundary, and to the south of the proposed buildings, to add to the existing screening between the site and the castle entrance, gates and avenue.

8.3.40. Taken together with my overall assessment of this scheme I am satisfied that the scheme as presented does not contravene Objective HCAO24 - Alteration and Development of Protected Structures and ACAs.

8.3.41. ***Urban Development and Building Heights Guidelines for Planning Authorities***

8.3.42. The Fingal County Development Plan 2023-2029 does not provide restrictive blanket heights however it defers to the guidance on height provided within the Height Guidelines. Policy SPQHP35 - Quality of Residential Development addresses residential building heights and high-quality design and seeks adherence:

*“Promote a high quality of design and layout in new residential developments at appropriate densities across Fingal, ensuring high quality living environments for all residents in terms of the standard of individual dwelling units and the overall layout and appearance of developments. Residential developments must accord with the standards set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG 2009 and the accompanying Urban Design Manual – A Best Practice Guide and the Sustainable Urban Housing; Design Standards for New Apartments (DHLGH as updated 2022) and the policies and objectives contained within the Urban Development and **Building Heights Guidelines (December 2018)**. Developments should be consistent with standards outlined in Chapter 14 Development Management Standards. (emphasis added)*

8.3.43. The Building Height Guidelines provide criteria when assessing applications for increased height and describe the need to move away from height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In Section 2.8 of the Height Guidelines, it is stated that:

"Historic environments can be sensitive to large scale and tall buildings. In that context, Planning Authorities must determine if increased height buildings are an appropriate typology or not in particular settings".

8.3.44. The built heritage characteristics of the receiving environment, including the protected structures and ACAs are comprehensively identified and described in the Architectural Heritage Impact Assessment Report, the Designed Landscape Appraisals and in Chapter 16 of the EIAR. There are no protected structures on the site. Indirect visual impacts are anticipated on the settings of Howth Castle and Howth Castle Gate and on the setting of St Marys Church and on the setting of Howth Castle ACA. The impacts are described in detail in Chapter 16 of the EIAR summarised as follows:

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| VVM 6 | <p>View looking towards the proposed site with the main gates of Howth Castle to the left of the frame</p> <p>Built – Heritage Features</p> <ul style="list-style-type: none"> ▪ Howth Castle Main Gate ▪ Howth Castle Demesne, an ACA ▪ Boundary Wall, former Deer Park and/or Demesne Wall ▪ St. Mary’s Church <p>The proposed development will have a visual impact on the views on approach to the Howth Castle Gates where the proposed new buildings will be viewed behind the historic wall, and the existing and proposed planting. The proposed pedestrian entrance will also have a visual impact.</p> <p>Incorporated Design Mitigation</p> <ul style="list-style-type: none"> ▪ the set-back between the proposed buildings and the proposed site boundary ▪ the step-down to three storeys at the southeast end of the proposed Block D ▪ the existing planting along the entrance avenue to Howth Castle, which will be supplemented with new trees on the subject site |
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| | <ul style="list-style-type: none"> ▪ the repair and retention of the historic demesne boundary wall ▪ high quality buildings which will make a positive contribution to the contemporary characteristics of the streetscape to the west <p>The predicted residual impact is neutral, significant, long-term</p> |
| VVM 7 | <p>View looking towards Howth Village from Howth Road</p> <p>Built – Heritage Features</p> <ul style="list-style-type: none"> ▪ Boundary Wall, former Deer Park and/or Demesne Wall ▪ St. Mary’s Church <p>The proposed development will have a visual impact on the views on approach to Howth Village where the proposed new buildings will be viewed behind the historic wall, and the existing and proposed planting. The proposed pedestrian entrance will also have a visual impact.</p> <p>Incorporated Design Mitigation</p> <ul style="list-style-type: none"> ▪ the set-back between the proposed buildings and the existing boundary wall, the landscaping proposal for the open spaces inside the demesne wall ▪ the repair and retention of the historic demesne boundary wall ▪ high quality buildings which will make a positive contribution to the contemporary characteristics of the streetscape to the west <p>The predicted residual impact is neutral, significant, long-term</p> |
| VVM 12 | <p>View looking towards the entrance gates from the approach avenue to Howth Castle</p> <p>Built – Heritage Features</p> <ul style="list-style-type: none"> ▪ Howth Castle Main Gate ▪ Howth Castle Demesne, an ACA ▪ St. Mary’s Church <p>The proposed development will be screened from view of the avenue by the existing wall, and by existing and proposed planting. The existing undergrowth is thick and in the ‘worst case scenario’ where it was cleared, the visual impact of the proposed buildings would be increased.</p> |

| | |
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| | <p>The proposed additional planting at the east site boundary reduces the 'worst case' impact.</p> <p>Incorporated Design Mitigation</p> <ul style="list-style-type: none"> ▪ the set-back between the proposed buildings and the proposed site boundary ▪ the step-down to three storeys at the southeast end of the proposed Block D the existing planting along the entrance avenue to Howth Castle, which will be supplemented with new planting and trees on the subject site ▪ high quality buildings which will make a positive contribution to the contemporary characteristics of the streetscape to the west <p>The predicted residual impact is neutral, moderate, long-term</p> |
| VVM 19 | <p>View looking across the Howth Castle ACA, towards the proposed site from Muck Rock. Howth Castle is in the centre of the frame with St. Mary's Spire behind</p> <p>Built – Heritage Features</p> <ul style="list-style-type: none"> ▪ Howth Castle - A Recorded Monument ▪ Howth Castle Demesne, an ACA ▪ St. Mary's Church: A Protected Structure <p>The proposed development will be screened by existing and proposed planting both on and around the proposed site The proposed buildings are visually separated from the castle buildings by the existing planting including the band of semi-mature trees within the proposed site boundary, which are proposed for retention. In the 'worst case scenario' where the existing trees are lost, the impact would be increased. The retention of the semi-mature trees on the proposed site, reduces the 'worst case' impact.</p> <p>Incorporated Design Mitigation</p> <ul style="list-style-type: none"> ▪ the set-back between the proposed buildings and the existing site boundary |

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| | <ul style="list-style-type: none"> ▪ the retention of the existing semi-mature trees within the proposed site and to the south of the proposed buildings ▪ the setback of the proposed fourth floor and the change of material of the top level ▪ Green roofs, with services (except PV panels) to be housed inside the buildings ▪ high quality buildings, materials and details <p>The predicted residual impact is neutral, significant, long-term</p> |
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8.3.45. Taking account of the incorporated design mitigations, no significant negative impacts were identified on the protected structures or the ACA in the receiving environment as a result of the proposed development.

8.3.46. In relation to the main entrance gates to Howth Castle (the gate has not been individually designated in Fingal's RPS but is specifically referenced in the listing for the castle) I note the comments of the FCC Conservation Officer where they state that *the character formed by the tree-lined entrance, the random rubble masonry boundary walls and the highly stylised gate design is a fundamental part, of the sense of place of Howth, contributing significantly to the attractiveness and character of the settlement.* The Conservation Officer further states that *the entrance area to Howth Castle, as it currently exists, serves as the landmark for the entry point to Howth, just as Malahide Castle Demesne creates the distinctive entry point from Dublin City to Malahide.*

8.3.47. As pointed out by the applicant the gates to demesne landscape at Malahide open directly off the Dublin Road, while Howth Castle Gates are more than 80m set back from Howth Road and approximately 70m behind the demesne wall. Having regard to the existing set back and screening, the gates do not directly feature on views on approach to Howth Village from Howth Road. I refer to VVM 7, VVM 8, VVM9 and VVM 10 in this regard. The primary architectural features on approach to Howth are the spire of St Marys Church and the demesne boundary wall. Similarly, the gate is screened from view when leaving, by topography and its set back.

8.3.48. While I agree with the Case Planner that *landmarks can be formed by natural features or man-made landscapes and not just by tall built structures*, I disagree that the

proposed scheme would have such a negative impact on the gates to Howth Castle as to warrant a refusal. Taking account of the incorporated design mitigations, I am satisfied that no significant negative impacts were identified on the setting of Howth Castle Gate as a result the proposed development.

8.3.49. The built form is commensurate with recent development (currently under construction) on the opposite side of Howth Road. The appeal site will capitalise upon its accessible location in proximity of public transport and shops and amenities located within Howth town centre. The Claremont development has significantly changed the townscape at Howth Road between the development site and Howth town centre. While the proposal would change the character of the immediate area, this change would be positive and would be in keeping with national and regional planning policy. Overall I am satisfied that the proposed building heights are fully consistent with the provisions of the Urban Development and Building Heights Guidelines 2018.

8.3.50. ***Sustainable Residential Development and Compact Settlement Guidelines***

8.3.51. These guidelines set out policy and guidance in relation to the planning and development of urban settlements towards creation of sustainable residential development and compact settlements. I have had regard to the Statement of Consistency submitted with the application and I am satisfied that the individual housing units, in terms of quality living environment, including separation distances, public open space standards, provision for car and bike parking and consideration of levels of daylight and sunlight complies with the requirements of these guidelines.

8.3.52. However, I note that the Case Planner raised concern that the density at this site location cannot be justified given the architectural heritage sensitivity of the site and surrounding areas with reference to Section 3.4.2 of the Sustainable Residential Development and Compact Settlement Guidelines. Section 3.4.2 states that "*while considerations of centrality and accessibility will have a significant bearing on density, it is also necessary to ensure that the quantum and scale of development at all locations can integrate successfully into the receiving environment. New development should respond to the receiving environment in a positive way and should not result in a significant negative impact on character (including historic character), amenity, or the natural environment.*"

- 8.3.53. The proposed development would provide a density of 123 units per hectare (uph), which has been calculated on the net developable area (1.10ha). This density aligns with the sites location density at this Dublin 'City-Suburban/Urban Extension' site where it is a policy and objective of these Guidelines that residential densities in the range 40 dph to 80 dph (net) shall generally be applied at suburban and urban extension locations in Dublin and Cork, and that densities of up to 150 dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations (as defined in Table 3.8).
- 8.3.54. Having regard to Table 3.8: Accessibility - High-Capacity Public Transport Node or Interchange the site is within 1,000 metres (1km) walking distance of the DART, an existing high capacity urban public transport node and therefore the density proposed is acceptable.
- 8.3.55. In terms of impact on character (including historic character), amenity, or the natural environment I refer to other sections of this assessment where it has been demonstrated that the proposed scheme in terms of height and design has responded in a positive way to its sensitive location without negatively compromising the receiving environment.
- 8.3.56. ***Architectural Heritage Protection Guidelines for Planning Authorities***
- 8.3.57. The Architectural Heritage Protection Guidelines for Planning Authorities (2011) and the Advice Series offers guidelines for planning authorities concerning development objectives and also contains detailed guidance to support them in protecting the architectural heritage. Sections 13.7 and 13.8 Provide Guidelines for Development within the attendant grounds of a Protected Structure, and development which may affect its setting noting that development '*proposals should not have an adverse effect on the special interest of a Protected Structure. The extent of potential impact will also be dependent on the quality of the Protected Structure, its designed landscape and setting*'. Architectural Conservation Areas are identified in the Guidelines as a means by which a planning authority can identify the features associated with a structure that it wishes to protect.
- 8.3.58. Following an informed character appraisal, I am satisfied that the scheme has aligned with the requirements of the Architectural Heritage Protection Guidelines for Planning Authorities to protect the site's-built heritage, integrate meaningfully with its setting,

assist in placemaking, and retain heritage significance for future generations. The development proposals include specific strategies for conserving historic stonework, creating entrances, and necessary wall repairs. I am also satisfied that the future of the demesne wall will be secured through careful repair, record, and reuse, with minimal intervention, in line with international conservation conventions, thus preserving its historical integrity.

8.3.59. In evaluating the impacts on the demesne wall, Howth Castle, the designed landscape, and nearby built-heritage features, the capacity of the wall and the demesne to accommodate the intervention without significant loss of character has been well considered and taken together with my overall assessment I am satisfied that the proposal now before the Board will not have an adverse effect on the special interest of any of the Protected Structures referenced in the reason for refusal.

8.3.60. *Precedent*

8.3.61. I note the concern raised that the proposed development would set a poor precedent and would be contrary to the proper planning and sustainable development of the area.

8.3.62. The immediate surroundings have been undergoing significant change. Located immediately to the north and north-east of Howth Road, is the Claremont development, a high-density mixed-use development is currently under construction (Ref: TA06F.306102), which will provide a total of 512 residential homes with a maximum height of 8 storeys, retail, a creche, restaurant, café and civic plaza. The development of this site has altered the existing character and taken together with this LRD scheme will further alter the existing setting and impact Howth Road visually. However, these proposals will be consistent with the existing and emerging pattern of development in the area and, therefore, would not be contrary to the proper planning and sustainable development of the area.

8.3.63. The proposal is considered to adequately respond to its sensitive location, the Howth Castle ACA, the historic demesne lands of Howth Castle, a Protected Structure, and St Mary's Church. The proposed development is not considered to be wholly inconsistent with the established character of this area, would not be seriously injurious to the visual amenities of the area and would not be detrimental to the character, setting and special interest of the surrounding protected structures. I do not consider that to permit this scheme would set a poor precedent.

8.3.64. Conclusion

8.3.65. As set out in the current Development Plan and as observed day of site inspection the baseline environment is sensitive and includes a sensitive historical and natural context. These sensitive designations as set out in the first reason for refusal do not of themselves prohibit development at this site. Rather they require an exceptionally well considered and sensitive response. I agree with the project Architect that a successful environment evolves over time while respecting its heritage. The conservation process embraces development that positively enhances an area's appearance.

8.3.66. It is in this context that I am satisfied that the sites sensitive context has been well understood by the applicant and is reflected in the sensitively designed scheme now before the Board. The development is reflective of national policy which seeks compact growth on sites with good accessibility to public transport, services and employment. The proposed development is considered to respect and enhance the historic and architectural character of the area, would be acceptable in terms of urban design, height and the quantum of development and would not seriously injure the amenities of the surrounding area. It is therefore recommended that this first reason for refusal be set aside.

8.4. Refusal Reason No 2 - Visual Impact

8.4.1. Fingal County Council in their second reason for refusal set out the following as summarised:

- The proposed development would be visually dominant and incongruous within the streetscape and immediate context in addition to being significantly intrusive on the skyline and on approach into and out of Howth village and when viewed from the surrounding coastal area, which is categorised as having an exceptional landscape value.
- The proposed development would contravene Objective GINHO55 - Protection of Skylines of the Fingal Development Plan 2023-2029 and Objective GINHO56 whereby the Visual Impact Assessment submitted was considered inadequate to fully assess the proposed development.

- The scheme would therefore materially contravene the RS and HA Zoning Objective of the site.

8.4.2. I will address the detailed reason for refusal under the following subheadings. As mentioned above, the overall assessment should be read and considered as a whole together with the relevant sections of the EIA below as many of the issues identified in the reasons for refusal overlap.

8.4.3. ***Visual Dominance***

8.4.4. As set out above, I consider the overall scale and height of the scheme proposed to be appropriate at this location, particularly given its accessible location to good public transport and that the design and layout of the scheme has had particular regard to its sensitive location while balancing the necessary requirements of national, regional and local policy to maximise residential density and promote compact growth at suitable locations with good public transport such as this without compromise to the sites historical context and surrounding coastal area.

8.4.5. I am satisfied that the introduction of this residential scheme would complement the evolving pattern of land use in the area. A suitable setback and transition in scale from those existing properties has been provided, and assessments confirm no significant impacts arising thereby, confirming the appropriateness of this urban intervention. I agree with the applicant that the site is at the point of transition between the evolving town centre to the east and an area of residential use and predominantly suburban character to the west. I further agree that the proposed scheme together with the Claremont development directly across the road would form a corridor of contemporary urban buildings as Howth Road enters/exits the town centre, forming a distinct western edge to the town centre, and emphasising the historic character of the harbour area by its contrast. Again, I consider this to be a suitable response for the development of lands at this location.

8.4.6. ***Objective GINHO55 - Protection of Skylines***

8.4.7. Objective GINHO55 requires skylines and ridgelines to be protected from development. Having regard to the wider assessment of this scheme I do not consider that the proposal would contravene Objective GINHO55 - Protection of Skylines. Protect skylines and ridgelines from development of the Fingal Development Plan 2023-2029.

8.4.8. Objective GINHO56 - Visual Impact Assessments

8.4.9. Objective GINHO56 requires any necessary assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas. I refer to Chapter 5 Landscape and Visual Impact and Appendix 5.1 Visual Assessment of the EIAR that accompanied the planning application together with the Supplementary Visual Note that accompanied the appeal.

8.4.10. It is noted that the LVIA which accompanied the planning application took into consideration the comments provided by Fingal County Council as part of the LRD Opinion and provided additional requested viewpoints. Viewpoint 23, Viewpoint 22 and Viewpoint 12 were added in response to the request and a full assessment of each of the views formed part of the final planning application documentation.

8.4.11. The applicant states that the Planning Authority outsourced the review and appraisal of the EIAR to an external Consultant and that the following conclusions were drawn in relation to the LVIA chapter as follows:

- The baseline landscape and visual environment has been comprehensively defined and characterised.
- The impact assessment is deemed to be appropriate, reasonable and accurate. The potential effects from the development have been appropriately characterised and presented, having regard to the following:
 - 1) Embedded mitigation measures associated with the project. - Proposals to retain existing treelines and hedgerows that contribute to the qualities and good aesthetic of the existing environment.
 - 2) The photomontages prepared for the proposed development and the likely views toward the development site from identified viewpoints.
 - 3) The surrounding context including the development at Claremont (which is significantly larger in scale than the subject proposed development) which sets a precedent for development character in the vicinity of the proposed development
- The range of mitigation measures defined for the proposed development are deemed to be appropriate.

- Residual impacts have been appropriately and accurately characterised. It is fair and reasonable to conclude the operational phase of the proposed development will have a positive effect on landscape and visual conditions given its high quality design. The proposed development is not predicted to generate any adverse effects either on its own or in combination with other development.

8.4.12. I agree with these conclusions.

8.4.13. **NOTE** I would point out that aside from the reference to this outsourcing to an external consultant in the appeal submission there is no obvious reference to same in the Case Planners report. Neither has said report been made available with the appeal file.

8.4.14. Notwithstanding the foregoing I note the Case Planners report states that *the LVIA needs to be extended to include views from Muck Rock Hill*. Viewpoint 19 of the submitted LVIA provided a viewpoint from the Rhodendrum garden located to the west of Deer Park Hotel and Golf course. The applicant submits that *given the difficulty accessing Muck Rock, Viewpoint 19 was deemed appropriate albeit the level was slightly lower than that of Muck Rock*. In light of the Case Planners comments, the applicant provided an additional viewpoint prepared in proximity to Muck Rock, albeit at a higher location, given the accessible nature of this location. This additional viewpoint has been considered within the Supplementary Visual Note that accompanied the appeal.

8.4.15. It is considered that the Landscape and Visual Impact report (EIAR Chapter 5) together with the supplementary note provides a comprehensive and robust assessment of the visual impact of the proposal, on the local or wider landscape. The Landscape and Visual Impact, uses an industry-accepted methodology and the selected views were established in consultation with the Planning Authority. Overall, I am satisfied that, the development does not contravene Objective GINHO56 Visual Impact Assessments and that the necessary assessments, including visual impact assessments, have prepared prior to approving development in this highly sensitive areas.

8.4.16. ***Materially Contravention of the RS and HA Zoning Objective***

8.4.17. As outlined above, the proposal is not deemed to contravene Objective GINHO55 and Objective GINHO56, and therefore, is not deemed to materially contravene the 'RS' and 'HA' zoning objectives of the site.

8.4.18. **Conclusion**

8.4.19. Having regard to the foregoing it is recommended that Refusal Reason No 2 is set aside.

8.5. **Conditions**

8.5.1. I refer to Section 4.0 of this report above where a number of conditions of note, that reflect particular requirements of FCC and its internal departments together with those of prescribed bodies are referenced. While some of the conditions as recommended are dealt with by way of standard Board conditions others require further consideration and are set out as follows:

8.5.2. **FCC Case Planner** - In their response to the appeal state that if the appeal is successful that conditions in relation to a financial contribution and/or a provision for any shortfall in open space, the inclusion of bond/cash security for residential developments of 2 or more unit and a tree bond. These conditions are raised separately in the internal FCC reports and are addressed below.

8.5.3. **FCC Environment, Climate Action, Active Travel and Sports Department** –No objection subject to conditions requiring the preparation of a Construction and Demolition Resource Waste Management Plan (RWMP). It is recommended that should the Board be minded to grant permission that the standard Board conditions in this regard be attached. Condition No 11 and 14 as set out in the recommendation below refers.

8.5.4. **FCC Water Services Department** – No objection subject to conditions relating to foul sewer, water supply and surface water. It is recommended that should the Board be minded to grant permission that the standard Board conditions in this regard be attached. Condition No 4 and 6 as set out in the recommendation below refers. In addition to these standard conditions the Water Services Department has also requested *the applicant shall contribute the necessary fee for Uisce Eireann to complete the works to remove infiltration in the network on approximately 55m of existing wastewater network at Dungriffin Road, Howth, Co Dublin to facilitate the wastewater connection for the proposed development.* No party to the appeal has objected to this requirement. It is therefore recommended that should the Board be

minded to grant permission that a Section 48(2)(c) be attached. Condition No 27 as set out in the recommendation below refers.

- 8.5.5. **FCC Heritage Office (Archaeological Report)** – This department was satisfied that no further archaeological monitoring was required. However, I also refer to the report of the **Department of Housing, Local Government and Heritage** that requested a condition pertaining to Archaeological Monitoring be included in any grant of planning permission that may issue. This is in line with the conclusions of the EIA below; Section 10.68 Cultural Heritage – Archaeology refers. In the event of a grant of planning permission it is recommended that, a programme of archaeological testing be carried out across the site prior to any further groundworks on site. Condition No 20 as set out in the recommendation below refers.
- 8.5.6. **FCC Ecologist** – No objection subject to the mitigation measures outlined in the EIAR and NIS being implemented in full. I refer to Section 9.0 Appropriate Assessment and Section 10.0 of this report below. It is recommended that should the Board be minded to grant permission that the standard Board compliance conditions in this regard be attached. Condition No 2 and 3 as set out in the recommendation below refers.
- 8.5.7. **FCC Public Lighting Section** – No objection subject to technical design conditions as set out in their report. It is recommended that should the Board be minded to grant permission that the standard Board public lighting condition be attached. Condition No 7 as set out in the recommendation below refers.
- 8.5.8. **FCC Transportation Planning Section** – No objection subject to conditions as outlined in their report. Please refer to Section 8.2 of this report above where traffic impact, parking and layout are discussed and where no issues arise. Should the Board be minded to grant permission it is recommended that the requirements of the Transportation Section (over and above matters set out in other conditions such as undergrounding of services, stormwater and submission of a Construction Management Plan and Construction Traffic Management Plan) be attached by way of condition. Condition No 18 as set out in the recommendation below refers.
- 8.5.9. **FCC Parks and Green Infrastructure Division** – A detailed report has been provided and elements of which has been discussed in Section 8.3 above in relation to impact on the Howth SAAO and the Visual Impact Assessment. In addition a number of conditions have been recommended. Some of these are addressed in the standard

An Bord Pleánala conditions set out below in relation to implementation of the proposed landscaping plan, open space, tree protection, play spaces and taking in charge. Where appropriate the standard conditions have been amended to reflect the specific requirements of FCC. Additional conditions are discussed as follows:

- The report required a revised site layout to provide a setback from the tree root protection area that allows a min 1:5 slope to the proposed residential blocks. It is also a requirement that a Arboricultural Consultant be appointed and shall be responsible for tree protection during the course of construction works. Having regard to the proposed landscaping plans and particulars available to view throughout the file including the EIAR I am satisfied that there are adequate proposals in place to protect the tree roots and that together with the requirement to appoint a suitably qualified Arboricultural Consultant to oversee all works that no issues arise in this regard. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached reflecting this requirement. Condition No 19 as set out in the recommendation below refers.
- Stated that the Howth SAAO levy as per Objective 1.6 and Policy 1.6.1 of the Howth SAA Order shall apply at the Euro equivalent of IR£1,000 (€1,269.73) per unit at current Central Bank exchange rate of IR£1 = €1.26973. Therefore, the proposed development of 135no. units generates a Howth SAAO levy of €171,413.55. This levy is to be paid by the developer prior to the commencement of construction works. No concerns have been raised in the third party appeal with regard to this levy. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached reflecting this requirement. Condition No 25 as set out in the recommendation below refers.
- Stated that there is a shortfall in the quantum of public open space generated through the development works of 3,413m² (2,560m² Class 1 and 853m² Class 2). Prior to the commencement of construction works, the developer is required to make up this shortfall by way of a financial contribution in lieu of the Objectives of the Fingal Development Plan (DMSO53). No concerns have been raised in the third party appeal with regard to this financial contribution. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached reflecting this requirement. Condition No 25 as set out in the recommendation below refers.

- Stated that as the street tree is required to be removed for sightline purposes, prior to commencement the Council will calculate and agree a compensation amount with the developer for its removal and to plant a replacement street tree within the local area, as per Fingal's tree policy the 'Forest of Fingal'. No concerns have been raised in the third party appeal with regard to this compensation requirement. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached reflecting this requirement. Condition No 25 as set out in the recommendation below refers.
- A tree bond of €150,000 shall be lodged with the Council prior to the commencement of development to ensure that all retained trees included in the submitted Arboricultural Report are protected and maintained in good condition throughout the course of development. This bond will be held by Fingal County Council for a period of three years post-construction, which may be extended in the event of possible construction-related defects. No concerns have been raised in the third party appeal with regard to this bond. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached reflecting this requirement. Condition No 25 as set out in the recommendation below refers.

8.5.10. **DAA** – No comment other than to recommend consultation with the IAA and AirNav Ireland. This is a reasonable and prudent requirement, and it is recommended that should the Board be minded to grant permission that a similar condition requiring consultation is attached. Condition No 10 as set out in the recommendation below refers.

8.5.11. **Development Contribution** - I refer to Fingal County Council Development Contribution Scheme. The proposed scheme is not exempt from the contribution scheme. Accordingly, it is recommended that should the Board be minded to grant permission that a Section 48 Development Contribution condition is attached. Condition No 28 as set out in the recommendation below refers.

9.0 **Appropriate Assessment**

9.1. The LRD was accompanied by an Appropriate Assessment Screening Report and an Natura Impact Statement. Having reviewed the documents and submissions on file I

am satisfied that the information available allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

9.2. **Stage 1 Screening for Appropriate Assessment**

9.3. **Description of the project**

9.4. I refer to Section 1.0 and 2.0 of this report above for a detailed description of the site and the proposed development. The site adjoins Howth Demesne, Deer Park, Howth, Co. Dublin, with a total site area of approx. 1.5ha. The site is bounded to the north by Howth Road (R105), to the east by the access road leading to Howth Castle and Deer Park Golf Club, to the west by existing residential dwellings, and to the south by Deer Park Golf Course. The proposed development will consist of 135 residential units in two offset buildings ranging in height from 3-5 storeys, open space, surface car parking, partial demolition of 3 sections of the existing demesne northern boundary wall, restoration and refurbishment of the remaining extant northern and eastern demesne boundary wall, ESB substation, kiosk, rooftop solar photovoltaics, waste storage and plant rooms, drainage, boundary treatment, public lighting, together with all ancillary site and development works.

9.5. **Surface Water** - Detailed SuDS measures proposed are set out and include the use of bioretention areas, bioswales within the road design, Rain Gardens, Green and Blue roofs, Tree Pits, filtration system SuDS will be incorporated into the development due to the lack of infiltration capacity identified during ground investigations, lined underground attenuation tank and a bypass petrol interceptor will be provided. The design will comply with the appropriate policies and guidelines outlined in the Greater Dublin Strategic Drainage Study (GDSDS), the CIRIA SuDS Manual and the Fingal Co. Co. SuDS Guidance. A 30% climate change factor will be included for the design of the surface water network in accordance with the requirements of Fingal Co., in addition to an Urban Creep factor of 10% being applied to all roof areas.

9.6. **Foul Drainage** – The wastewater sewer network and has been designed in accordance with the principles and methods set out in Uisce Éireann's Code of Practice for Wastewater Infrastructure IW-CDS-5030-03, IS EN 752 Drain & Sewer Systems outside Buildings, IS EN 12056 Gravity Drainage Systems inside Buildings

and the Building Regulations Technical Guidance Document Part H Drainage & Wastewater. The Wastewater from the Proposed Development will eventually be treated at Ringsend Wastewater Treatment Plant (WwTP). A Confirmation of Feasibility & Statement of Design Acceptance has been received from Uisce Éireann.

- 9.7. **Landscape Plan** - The majority of the existing boundary vegetation is to be retained. The development will require the removal of two sycamores in the north and west of the site and a total of 89m² of semi-mature silver birch and 5no. semi mature Scots pine that make up the early mature woodland band that runs along the southern boundary, to facilitate the proposed Block D. The landscape approach includes areas of meadow, bulb and woodland planting in the southwest, southeast and east of the Site, along with native evergreen and deciduous hedgerow planting throughout. In terms of tree cover, it is estimated that new tree planting will provide a combined total of 3,362m² of canopy cover five years post development
- 9.8. **Lighting Plan** – The scheme has been designed so that lux levels along the vegetated boundaries have been minimised and limited to 0.5-1 lux. There will be no public lighting located within public open spaces to allow for minimal levels of light-spill on to the southern woodland belt. The luminaires selected are also of a warm lighting temperature of 2700k-3000k to minimise their impact to bats and other wildlife.
- 9.9. **Existing Environment**
- 9.10. A range of field surveys have been carried out at the site and are summarised in Table 1 of the Screening Report. Methods and results relevant to the Screening Report are provided in Section 3.4.1 and 4.1.2 of the Screening report. The winter bird survey effort at the Site over winter 2023/24 is described in Table 2 of the Screening Report.
- 9.11. The Waterbody Status for river, groundwater, transitional and coastal water bodies relevant to the Site as recorded by the EPA (2024) in accordance with European Communities (Water Policy) Regulations (as amended) are provided in Table 3 of the Screening Report. However, the site is situated on the Dublin (IE_EA_G_008) groundwater body, which has a WFD ecological status of 'Good' for the 2016-2021 survey period, and for which risk status is under review (EPA, 2024). The bedrock aquifer identified beneath the site is mapped as "Locally important aquifer - Bedrock which is Moderately Productive only in Local Zones" (GSI, 2024). The level of

vulnerability to groundwater contamination from human activities is considered 'High' across the Site (GSI, 2024).

- 9.12. Claremont Strand is located c.120m north of the Site of the Proposed Development; along the coast of the Irish Sea and lies within Baldoyle Bay SAC (000199). The North-west Irish Sea SPA (004236) also covers this part of the bay and is located c. 195m to the north of the Site.
- 9.13. No habitats designated as qualifying interests (QIs) for any nearby European sites were observed at the site; which is comprised almost entirely of unmanaged, low species diversity, rank grassland, with hedgerows and woodland margins along its boundaries. No invasive alien plant species that could lead to likely significant effects on European sites were therefore recorded on Site.
- 9.14. No SCI species associated with any of the relevant SPAs, nor any red or amber listed species of conservation concern in Ireland, were observed breeding on Site during the breeding bird surveys. No roosting waders were recorded at Caremont Strand, however, human disturbance was noted, and it is likely that birds are using the islands offshore as a high tide roost.
- 9.15. **Potential Impact Mechanisms from the Project**
- 9.16. The potential for significant effects that may arise from the Proposed Development was considered through the use of key indicators:
- Habitat loss or alteration.
 - Habitat/species fragmentation.
 - Disturbance and/or displacement of species.
 - Changes in population density.
 - Changes in water quality and resource.
- 9.17. In addition, information pertaining to the conservation objectives of the European sites, the ecology of the designated habitats and species and known or perceived sensitivities of the habitats and species were considered. The site is not within or adjoining any Natura 2000 sites and I do not consider that there is potential for any direct impacts such as habitat loss, direct emissions, or species mortality/disturbance.
- 9.18. The Screening Report considers the potential for significant effects from the proposed development at construction and operational stage in respect of the following:

Construction Phase (estimated duration: 18 months)

- Uncontrolled releases of silt, sediments and/or other pollutants to air due to earthworks;
- Surface water run-off containing silt, sediments and/or other pollutants into nearby waterbodies or surface water network;
- Surface water run-off containing silt, sediments and/or other pollutants into the local groundwater;
- Increased noise, dust and/or vibrations as a result of construction activity;
- Increased dust and air emissions from construction traffic;
- Increased lighting in the vicinity as a result of construction activity; and
- Increased human presence and activity as a result of construction activity

Operational Phase (estimated duration: indefinite)

- Surface water drainage from the Site of the Proposed Development;
- Foul water from the Proposed Development;
- Increased lighting at the Site and in the vicinity emitted from the Proposed Development; and
- Increased human presence and activity at the Site and in the vicinity as a result of the Proposed Development.
- Potential collision risk associated with the proposed buildings at the Site.

9.19. Having regard to the nature of the site and its distance and lack of connectivity with Natura 2000 sites, I do not consider that there would be any other potential impact mechanisms.

9.20. Limitations

9.21. As documented in the AA Screening Report and the NIS in October 2023, the applicant carried out *minor clearance works* to the site over a period of 3 days, which predominantly consisted of the cutting and removal of overgrown grassland and overgrown areas of boundary scrub and low-level vegetation. These works were required to assist with obtaining important accurate site surveys which included a full topographical survey of the existing levels & topography, boundary walls and trees within the site and a ground investigation. It is further submitted that the removal of this vegetation was also required to provide a safe and clear platform for the stable erection of the ground investigation equipment including excavators, boring rigs and

dynamic probing rig. It is stated that the applicant consulted with the author of AA Screening Report and the NIS prior to carrying out the above clearance work. It was agreed that, as the habitat survey had been carried out prior to the works taking place, the assessments in the ecological reports would not be affected by the aforementioned clearance works at the site.

9.22. I am satisfied that the above limitations have no bearing on the assessment provided in the AA Screening report and NIS Report, which would prevent robust conclusions being drawn as to the potential impacts of the Proposed Development on the relevant European sites.

9.23. The submitted AA Screening report does not identify specific consultations with prescribed bodies but does refer to a desktop review of published documents and information. The planning application was referred to the following prescribed bodies.

- Uisce Eireann
- Irish Aviation Authority
- Dublin Airport Authority
- An Taisce
- The Heritage Council

9.24. I note that none of the submissions received from the prescribed bodies raised issues in relation to ecology or biodiversity.

9.25. **European Sites at Risk**

9.26. The site is not located within or adjacent to any European site and will not result in any direct loss of, or impact on, habitats in such sites. The closest European site to the Proposed Development is Baldoye Bay SAC located c. 120m to the north at Claremont Strand and separated by ongoing multistorey development consisting of tall buildings, existing road infrastructure and developed lands. Therefore, a level of baseline screening already exists between the Site and the strand to the north.

9.27. Having regard to the potential impact mechanisms from the proposal, the European site(s) and qualifying features potentially at risk (i.e. within 15km) are as follows:

- North-East Irish Sea SPA (004236)
- Baldoye Bay SPA (004016)
- Howth Head Coast SPA (004113)

- North Bull Island SPA (004006)
- Ireland's Eye SPA (004117)
- Malahide Estuary SPA (004025)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Lambay Island SPA (004069)
- Rogerstown Estuary SPA (004015)
- Skerries Island SPA (004122).
- Dalkey Island SPA (004172)
- Rockabill SPA (004014)
- Baldoyle Bay SAC (000199)
- Ireland's Eye SAC (002193)
- Rockabill to Dalkey Island SAC (003000)
- Howth Head SAC (000202)
- North Dublin Bay SAC
- South Dublin Bay SAC

9.28. In relation to the foregoing European Sites, with the exception of Baldoyle Bay SAC and North-west Irish Sea SPA the following can be concluded:

- There is no potential for direct or indirect effects. No complete impact source-pathway-receptor chain was identified during the Screening Assessment.
- Hydrologically these sites are not linked to the proposed development and will not be affected by emissions or drainage effects from the construction or operation of the proposed development.
- The sites are not linked via direct hydrogeological pathways due to the sites relatively small scale and location in close proximity to the coastline.
- No sites are considered linked to the site via direct air and land pathways due to the relatively small scale of the Proposed Development and the distance between the Site and the next nearest designated site (i.e., North Dublin Bay SAC (000206) c.1.3km to the west).
- In-flight collisions between SCI bird species and the Proposed Development are not deemed to pose a source of likely significant effects to the conservation objectives of the relevant SPAs.

- No direct habitat or species fragmentation related impacts will occur as a result of the proposed development. The site does not support any Annex I QI habitats nor, has the site or surrounding lands supported any significant numbers of SCI species listed for the European sites listed
- Hydrologically these sites are not linked to the proposed development and will not be affected by emissions or drainage effects from the construction or operation of the proposed development.
- Considering the relatively low volume of any surface water run-off or discharge events that would occur from the site relative to the receiving surface water and marine environment in Baldoyle Bay, and given the level of mixing, dilution and dispersion of any surface water run-off/discharges from the site within the receiving waters of Baldoyle Bay and the Irish Sea, the Proposed Development will not have any measurable effects on water quality in European sites beyond the ZOI.
- Lighting emitted from the proposed development is not deemed likely to cause any significant effects to any nearby European Sites
- The potential for foul waters generated at the Site of the Proposed Development to reach these European sites within Dublin Bay and cause significant effects, during the Construction and Operational Phases, is deemed to be negligible mainly due to the ongoing upgrade works to Ringsend WWTP and the insignificant increase in terms of the overall scale of the facility.
- The Proposed Development will not result in a reduction in population densities of any SCI species associated with the relevant SPAs.
- While it is possible that the increased human presence that will be generated during Operational Phase of the Proposed Development has the potential to disturb flocks of wintering birds at Claremont Strand, it is concluded based on the numbers of waterbirds recorded at this stretch of coastline as detailed in Section 4.3.4.1 of the Screening Report that any disturbance caused by recreational usage will not have the capacity to adversely impact the conservation objective attributes of “Population Trend” and “Distribution” for the relevant SPAs.

9.29. No complete impact source-pathway-receptor chain was identified during the Screening Assessment. Therefore, significant effects on these European Site

resulting from the proposed development can be excluded and they are therefore 'screened out' with the exception of Baldoyle Bay SAC and North-west Irish Sea SPA which are discussed below.

9.30. In relation to the North-west Irish Sea SPA and Baldoyle Bay SAC there is no potential for direct effects. A potential for significant effect was identified in the form of deterioration of water quality during construction and operation of the proposed development via a weak hydrological pathway. Although no watercourses/drainage ditches exist on Site, a pollution event of a sufficient magnitude, for example, surface water runoff during the Construction Phase in combination with an accidental oil or fuel spillage and heavy rainfall, could potentially carry silt/sediment or other pollutants into the local surface water drainage network which in turn could transfer them to downstream sections of Baldoyle Bay SAC and North-west Irish Sea SPA along the coast to the north. Such an event, although unlikely to occur, has the potential to affect the receiving aquatic and marine environments of those European Sites (either alone or in combination with other pressures on water quality).

9.31. As such, the potential for water quality deterioration affecting **Baldoyle Bay SAC** and **North-west Irish Sea SPA** via a Construction Phase hydrological pathway is **screened in** for further assessment.

9.32. **In-Combination / Cumulative Effects**

9.33. Having regard to the foregoing, I consider that the potential for in-combination effects is limited to the cumulative impact of Surface / Storm Water Drainage associated with other developments in the area.

9.34. I refer to Section 4.3.6 of the Screening Report, where granted and pending development applications within a 1km radius of the proposed development, the Fingal County Development Plan 2023-2029 that includes a range of policies and objectives to protect water quality, water regime, and Natura 2000 sites, and that any approved projects would have to demonstrate compliance with same and the current operation of the Ringsend WWTP were considered.

9.35. With regard to the Ringsend WWTP I note that the AA screening report refers to the conclusions of that EIAR and in particular, the conclusions relating to the do-nothing scenario. It argues that significant effects on marine biodiversity and Natura 2000 sites within Dublin Bay from the (then) current operation of Ringsend WwTP were

unlikely, and that in the absence of any upgrading works, significant effects to Natura 2000 sites were not likely to arise.

9.36. I acknowledge that other developments have a potential cumulative impact on the surface water drainage network. However, consistent with the current application, I am satisfied that they have demonstrated that there would be no significant residual effects on hydrology and Natura 2000 sites.

9.37. As there are no pathways connecting the project site to surrounding Natura 2000 sites and as the project will not result in significant negative impacts it will not have the potential to combine with other projects in the surrounding area to result in cumulative significant effects to the local environment or Natura 2000 sites occurring in the wider surrounding area.

9.38. I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 is not required. No further assessment is required for the project.

9.39. **Screening Conclusion**

9.40. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded, taking precautionary approach, that the project individually (or in combination with other plans or projects) could have a significant indirect effect on

- Baldoyle Bay SAC
- North-West Irish Sea SPA

in view of the sites' conservation objectives in the absence of mitigation. Appropriate Assessment is therefore required.

9.41. **Stage 2 Appropriate Assessment**

9.42. The nearest Natura site is the Baldoyle Bay SAC (0.12 km) and North-West Irish Sea SPA (0.17 km). These designated sites are buffered from the site by urban infrastructure. The Conservation Objectives and QIs for these sites are as follows:

| Baldoyle Bay SAC | |
|---|---|
| <p>Conservation Objective</p> <p>To maintain the favourable conservation condition of these habitats in Baldoyle Bay SAC</p> <p>Site Code 000199</p> <p>Distance to site 0.12km</p> | <p>Qualifying Interest</p> <ul style="list-style-type: none"> ▪ Mudflats and sandflats not covered by seawater at low tide [1140] ▪ Salicornia and other annuals colonising mud and sand [1310] ▪ Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] ▪ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] |
| North-West Irish Sea SPA | |
| <p>Conservation Objective</p> <p>To restore/maintain the favourable conservation condition of these species in North-west Irish Sea SPA</p> <p>Site Code 004236</p> <p>Distance to Site 0.17km</p> | <p>Qualifying Interest</p> <ul style="list-style-type: none"> ▪ Red-throated Diver (<i>Gavia stellata</i>) [A001] ▪ Great Northern Diver (<i>Gavia immer</i>) [A003] ▪ Fulmar (<i>Fulmarus glacialis</i>) [A009] ▪ Manx Shearwater (<i>Puffinus puffinus</i>) [A013] ▪ Cormorant (<i>Phalacrocorax carbo</i>) [A017] ▪ Shag (<i>Phalacrocorax aristotelis</i>) [A018] ▪ Common Scoter (<i>Melanitta nigra</i>) [A065] ▪ Little Gull (<i>Larus minutus</i>) [A177] ▪ Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] ▪ Common Gull (<i>Larus canus</i>) [A182] ▪ Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] ▪ Herring Gull (<i>Larus argentatus</i>) [A184] ▪ Great Black-backed Gull (<i>Larus marinus</i>) [A187] ▪ Kittiwake (<i>Rissa tridactyla</i>) [A188] ▪ Roseate Tern (<i>Sterna dougallii</i>) [A192] |

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| | <ul style="list-style-type: none"> ▪ Common Tern (<i>Sterna hirundo</i>) [A193] ▪ Arctic Tern (<i>Sterna paradisaea</i>) [A194] ▪ Little Tern (<i>Sterna albifrons</i>) [A195] ▪ Guillemot (<i>Uria aalge</i>) [A199] ▪ Razorbill (<i>Alca torda</i>) [A200] ▪ Puffin (<i>Fratercula arctica</i>) [A204] |
|--|--|

9.43. The following impact pathway identified during the Stage 1 AA Screening of the Proposed Development was screened into this Stage 2 Appropriate Assessment based on the potential to cause likely significant effects on European sites:

- Construction Phase surface water run-off containing silt, sediments and/or other pollutants into the Irish Sea via the local surface water drainage network.

9.44. In a worst-case scenario, contaminated surface water from the Site may drain to the local drainage network and reach the SAC habitat at Claremont Strand. Although deemed unlikely to lead to significant adverse effects to a degree that would undermine the integrity of the SPA, this impact pathway is considered as a precautionary approach.

9.45. **Mitigation Measures and Assessment**

9.46. As documented the only source of potentially significant effects identified as arising from the Proposed Development was as a result of water quality deterioration affecting downstream European sites, arising from possible contaminated surface water run-off during the Construction Phase. The following mitigation measures will ensure no significant effects arise as a result of this aspect of the development either alone or in combination with other projects

9.47. **Construction Phase Surface Water Mitigation (as summarised)**

1) Mitigation 1: A Robust Construction Environmental Management Plan (CEMP)

- A CEMP based on the mitigation commitments presented in the various EIAR Chapters and this NIS, and any other measures that are prescribed through planning conditions etc will be prepared for the Construction Phase by the contractor and approved by Fingal Co Co prior to commencement of works on Site.

- All construction and operations will be carefully planned and implemented with a series of environmental management and control procedures.
- The Contractor shall engage a suitably experienced ecologist, the Project Ecologist, who will have relevant experience in the management of ecological constraints during construction.
- The construction management of the Site will take account of the recommendations of the Construction Industry Research and Information Association (CIRIA) guides 'Control of Water Pollution from Construction Sites' and 'Groundwater control - design and practice' to minimise as far as possible the risk of pollution and IFI Publication (2016), "Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters".

2) Mitigation 2: Surface Water Runoff & Groundwater

- During the works all surface water from Site will be discharged to wastewater sewer following desilting in agreement with Fingal County Council and Uisce Éireann.
- Neither groundwater nor surface water runoff from the Site will be permitted to discharge directly to the environment or to local storm drains along Howth Road.
- Before works commence, the contractor will survey the stretch of Howth Road along the Site's northern boundary and ensure that any existing storm drains/ gullies are suitable protected from contaminated Site runoff by way of sandbags, or internal drain guards
- The sandbags/ internal drain guards protecting local storm drains/ gullies will be checked by the contractor regularly to ensure they are in place and operating effectively. Where required sandbags will be replaced and drain guards emptied and reinstalled with emptied material disposed of appropriately as waste.
- On Site, surface water runoff will be first directed to and intercepted by temporary settlement lagoons/silt busters/silt traps, whichever is more applicable based on the Site constraints. The size of the settlement lagoon/type of silt buster/silt trap will be determined from predicted flow rates and retention times based on sediment particle size and density.
- The Contractor will be required to provide a site-specific dewatering plan, clearly setting out proposed excavation methodology, estimated dewatering rates, details of the proposed treatment system, and discharge location.

- The surface water attenuation measures will be designed to not be overwhelmed by one-off adverse precipitation events.
- Mud will be controlled at entry and exits to the site using wheel washes and/or road sweepers
- The performance of the surface water drainage network will be maintained and monitored throughout the construction of the Proposed Development

3) Mitigation 3: Stockpiles and Excavated Materials

- Designated stockpile areas will be established and will not be placed up against retained hedgerows, stone walls or treelines.
- Appropriate working practices to avoid the repetitive handling of excavated material, minimise vehicle movements, limit the size, number and frequency of stockpiles, reduce the compaction and erosion of soils etc. and control the generation of dust.
- Implementation of a construction traffic management plan and controls on the locations of plant and materials
- Excavation is to be restricted during high winds and heavy rainfall
- Excavated materials are to be inspected for signs of possible contamination

4) Mitigation 4: Fuels, Chemicals and Vehicles

- All site personnel will be trained in the handling of materials, the sensitive nature of the receiving environment, the drainage system and the consequences of accidental spillages.
- Fuels, lubricants and hydraulic fluids for equipment used on the construction site, will be carefully handled to avoid spillage, properly secured and provided with spill containment according to best codes of practice;
- Waste oils and hydraulic fluids will be collected in leak-proof containers and removed from the proposed development for disposal or recycling.
- Any spillage of fuels, lubricants or hydraulic oils will be immediately contained and the contaminated soil removed from the Site and properly disposed of.
- All site vehicles used will be refuelled in bunded and adequately sealed and covered areas in the construction compound area.
- Strict supervision of contractors will be adhered

- All oil stored for construction vehicles will be kept in a locked and bunded area.
- All temporary construction fuel tanks will also be located in a suitably bunded area and all tanks will be double skinned. Fixed plant will be self-bunded.
- All fuel/oil deliveries to on-site oil storage tanks will be supervised, and records will be kept of delivery dates and volumes.
- Spill kits and oil absorbent material will be carried with mobile plant and located at vulnerable locations around the Site
- Procedures are to be put in place to ensure the identification, remediation and correct reporting of any fuel, oil, chemical or other pollution incidents that may occur.

5) Mitigation 5: Working with Cement

- No mixing of concrete will be carried out on Site. The production, transport and placement of all cementitious materials will be strictly planned and supervised. Where possible, Site batching/production of concrete will not be carried out on Site. Shutters will be designed to prevent failure. Any spillages will be cleaned up and disposed of correctly. The opening gate of the delivery chute will be securely fastened to prevent accidental opening. Concrete skips, pumps and machine buckets will be prevented from slewing over water when placing concrete. Surplus concrete will be returned to batch plant after completion of a pour. The Contractor will dispose of all alkaline wastewaters and contaminated stormwater offsite having regard for local waste management legislation.
- The Contractor will implement procurement procedures to ensure that aggregate, fill material and topsoil are acquired from reputable sources with suitable environmental management systems as well as regulatory and legal compliance and that it is “clean” (i.e. it will not contaminate the environment).

9.48. Monitoring

9.49. Construction Phase

9.50. During the Construction Phase, the following monitoring will be carried out by the construction contractor to ensure the implemented mitigation measures are maintained effectively:

- A suitably qualified Site Environmental Manager shall be employed

- Surface water and groundwater protection measures will be checked weekly by the Environmental Manager
- Discharge of treated surface water from dewatering activities will be monitored in accordance with the Discharge Licence agreed with Uisce Éireann.
- Any deviations from the proposed mitigation or any corrective measures will be agreed with the Project Ecologist and Contractor prior to being implemented.
- Records will be kept of all checks and any deviations/corrective measures to inform Fingal Co Co if required.

9.51. Assessment of Residual Adverse Effects

9.52. The design of the scheme has been developed with an overall objective of avoiding adverse effects on these ecologically sensitive sites. Mitigation measures will be implemented (as described) reducing the risk of negatively affecting water quality in the receiving surface water environment and habitat integrity thus ensuring that the receiving environment is protected, and the conservation objectives of the identified Natura sites are not negatively affected by the proposed development.

9.53. There will be no changes to habitat area or distribution, hydrological regime, water quality, vegetation structure or composition or physical structure of these sites as a result of the proposed development. Further there will be no changes to supporting habitat extent/quality or distribution of species within these sites. There are therefore, no residual direct or indirect impacts associated with the proposed development that could adversely affect the integrity of these sites. The proposed project will not prevent the QIs / SQIs of European Sites from achieving / maintaining favourable conservation status in the future as defined in Article 1 of the EU Habitats Directive.

9.54. Concluding Statement

9.55. I am satisfied that a full examination of the potential impacts has been analysed and evaluated using the best scientific knowledge. The potential for significant effects on the following sites was identified:

- Baldoyle Bay SAC
- North-West Irish Sea SPA

- 9.56. Where the potential for any adverse effect on any European Site has been identified, the pathway by which any such effect may occur has been robustly blocked through the use of avoidance, appropriate design and mitigation measures as set out within the NIS and its appendices. The measures ensure that the construction and operation of the proposed development does not adversely affect the integrity of European sites.
- 9.57. I am satisfied based on the information available that if the key design features and mitigation measures are undertaken, maintained and monitored as detailed in the NIS and EIAR that any adverse effects on the integrity of the identified sites will be avoided.
- 9.58. Therefore I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Baldoyle Bay SAC (000199) and North-West Irish Sea SPA (004236) or any other European site, in view of the sites' Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

10.0 Environmental Impact Assessment

10.1. Statutory Provisions

- 10.2. The proposed development is for the construction of 135 new homes, a Large Scale Residential Development, at Deer Park, Howth, Co. Dublin. Further details are provided in Section 2.0 of this report above.
- 10.3. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended, provides that an Environmental Impact Assessment (EIA) is required for 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.*

- 10.4. The development will consist of 135 residential apartment units on a site measuring 1.53 ha and therefore in isolation does not fall within development classes set out in Part 2 of Schedule 5 or Class 10 of Part 2 of Schedule 5. Therefore, a mandatory EIA is not required.
- 10.5. The criteria for determining whether development listed in Part 2 of Schedule 5 should be subject to an EIA are set out in Schedule 7 of the PDRs; and the information to be provided by the Applicant to the Competent Authority for the purposes of screening sub-threshold development for EIA is set out in Schedule 7A. It concludes that the main likely potential effects of the proposed development on the environment are as follows:
- Temporary potential effects locally on human health, air quality and noise and vibration from the construction phase.
 - Temporary effects on the local road network, specifically Sutton Cross from the construction phase and in particular if the proposed development overlaps with the construction phase of the adjacent Claremont development.
 - Potential temporary to permanent effects on key ecological features including European Designated Sites, downstream aquatic environment and species which commute/feed within the proposed development site and/or immediate vicinity.
 - Potential permanent effect on the townscape and the wider Howth area when viewed from elevated locations and in combination with the approved Claremont development.
 - Potential permanent effect on cultural heritage in particular built heritage i.e. the demesne wall, Architectural Conservation Area (ACA) and local Protected Structures.
- 10.6. In light of the foregoing it is considered that this sub-threshold project requires EIA to fully address the likely significant environmental effects with regard to the potential cumulative impacts of the development when considered in combination with the site's high environmental sensitivity as it is located within an area of high landscape, biodiversity and cultural heritage importance. Therefore an EIAR is required in order to conclude with certainty that the proposed development, having regard to the nature, size and location would not result in likely significant effects on the environment. Accordingly, an EIAR has been and submitted with this application.

10.7. EIA Structure

10.8. This section of the report comprises the environmental impact assessment of the proposed development in accordance with the Planning and Development Act 2000 (as amended) and the associated Regulations, which incorporate the European directives on environmental impact assessment (Directive 2011/92/EU as amended by 2014/52/EU).

10.9. It firstly assesses compliance with the requirements of Article 94 and Schedule 6 of the Planning and Development Regulations, 2001. It then provides an examination, analysis and evaluation of the development and an assessment of the likely direct and indirect significant effects of it on defined environmental parameters, having regard to the EIAR and relevant supplementary information.

10.10. The assessment also provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Boards decision, should they agree with the recommendation made.

10.11. Issues raised in respect of EIA

10.12. The third-party concerns, planning authority reports, and prescribed body submissions are considered later in this report under each relevant environmental parameter.

10.13. Compliance with the Requirements of Article 94 and Schedule 6 of the Regulations 2001

10.14. The following table outlines my assessment of compliance with the requirements of Article 94 and Schedule 6 of the Regulations.

| Article 94 (a) Information to be contained in an EIAR (Schedule 6, paragraph 1) | |
|--|---|
| Requirement | Assessment |
| A description of the proposed development comprising information on the site, design, size and other relevant features of the proposed development (including the additional | Volume II Chapter 2 of the EIAR describes the development, including location and context; physical characteristics; services; construction management; as well as information on energy usage, emissions, and waste. In each technical chapter the EIAR details are provided on use of natural resources and the production of |

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| information referred to under section 94(b)). | emissions and/or waste (where relevant). I am satisfied that the description of the development is sufficient to enable an assessment of the likely effects of it on the environment. |
| A description of the likely significant effects on the environment of the proposed development (including the additional information referred to under section 94(b)). | Volume II Chapters 4 to 17 of the EIAR describe the likely significant direct, indirect, and cumulative effects on the environment, including the factors to be considered under Article 3 of Directive 2014/52/EU. I am satisfied that the assessment of significant effects is comprehensive and robust and an assessment of the likely effects of it on the environment. |
| A description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment of the development (including the additional information referred to under section 94(b)). | Each of the individual sections in the EIAR outlines the proposed mitigation and monitoring measures, which are collectively summarised in Chapter 18. They include 'designed in' measures and measures to address potential adverse effects at construction and operational stages, including an Outline Construction and Environmental Management Plan (including traffic management); a project arborist, project ecologist, site manager and a Resource and Waste Management Plan. The Mitigation measures comprise standard good practices and site-specific measures and are generally capable of offsetting any significant adverse effects identified in the EIAR. |
| A description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development and | Volume II Chapters 3 of the EIAR outlines the consideration of alternatives. Alternative processes were not considered due to the nature of the development, and alternative mitigation measures were not considered as the |

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| its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment (including the additional information referred to under section 94(b). | proposed measures were considered appropriate. A number of site layout and alternative designs were considered during the iterative design process. The main reasons for opting for the current proposal have been outlined in relation to environmental factors. The development as now proposed is considered to have arrived at an optimal solution in respect of making efficient use of zoned, serviceable lands whilst also addressing the potential impacts on the environment relating to residential, visual, natural and environmental amenities and infrastructure. I am satisfied, therefore, that the applicant has studied reasonable alternatives and has outlined the main reasons for opting for the current proposal before the Board and in doing so the applicant has taken into account the potential impacts on the environment. |
| Article 94(b) Additional information, relevant to the specific characteristics of the development and to the environmental features likely to be affected (Schedule 6, Paragraph 2). | |
| A description of the baseline environment and likely evolution in the absence of the development. | Each of the EIAR chapters includes a detailed description of the baseline environment which enables a comparison with the predicted impacts of the proposed development. |
| A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment, including details of difficulties (for example | Each of the EIAR chapters outline the methodology employed, consultations carried out, desk/field studies carried out, and any difficulties encountered. I am satisfied that the forecasting methods are adequate, as will be discussed throughout this assessment. |

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| technical deficiencies or lack of knowledge) encountered compiling the required information, and the main uncertainties involved. | |
| A description of the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters which are relevant to it. | This is considered in within each individual chapter of the EIAR where relevant. It states that the surrounding context consists of a mix of residential, employment, educational and open space public amenity lands. It does not include any man-made industrial processes (including SEVESO II Directive sites (96/82/EC & 2003/105/EC) which would be likely to result in a risk to human health and safety. The EIAR concludes that residual impacts will be negligible once all control, mitigation and monitoring measures have been implemented. Having regard to the nature, scale, and location of the project, I consider this to be reasonable. |
| Article 94 (c) A summary of the information in non-technical language. | This information has been submitted separately as Volume I of the EIAR. I have read this document, and I am satisfied that it is concise and comprehensive and is written in a language that is easily understood by a lay member of the public. |
| Article 94 (d) Sources used for the description and the assessments used in the report. | The sources used to inform the description, and the assessment of the potential environmental impact are set out in each section, including references. I consider the sources relied upon are appropriate and sufficient. |

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| Article 94 (e) A list of the experts who contributed to the preparation of the report. | Each individual chapter includes details on the expertise of the contributors. |
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10.15. **Consultations**

10.16. The application has been submitted in accordance with the requirements of the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended) in respect of public notices. Submissions received from statutory bodies and third parties are considered in this report, in advance of decision making. I am satisfied, therefore, that appropriate consultations have been carried out and that third parties have had the opportunity to comment on the proposed development in advance of decision making.

10.17. Having regard to the foregoing, I am satisfied that the information contained in the EIAR, is sufficient to comply with article 94 of the Planning and Development Regulations, 2001. Matters of detail are considered in my assessment of likely significant effects, below.

10.18. **Assessment of the likely significant direct and indirect effects**

10.19. This section of the report sets out an assessment of the likely environmental effects of the proposed development under the environmental factors as set out in Section 171A of the Planning and Development Act 2000. It includes an examination, analysis and evaluation of the application documents, including the EIAR and submissions received and identifies, describes and assesses the likely direct and indirect significant effects (including cumulative effects) of the development on these environmental parameters and the interactions of these.

10.20. Decommissioning - The design life of the scheme is greater than 60 years. Thus, for the EIA process, the development is considered permanent, and a decommissioning phase is not considered in this report.

10.21. **Population and Human Health**

10.22. **Issues Raised**

No specific issues have been raised in relation to this matter.

10.23. Examination, analysis and evaluation of the EIAR

Chapter 4 of the EIAR deals with Population and Human Health. For the purpose of this chapter, the primary sensitive receptors are:

- Existing residential dwellings in the vicinity of the proposed development site, in particular, existing low-rise suburban residential dwellings located to the west;
- Users of the public road network, specifically Howth Road, the user of Baltray Park, attendance of St. Mary's Church and Deerpark Montessori School, the golf club and the wider demesne lands;
- Future occupants of the former Techrete lands (Claremont SHD) for which permission has been granted (Reg. Ref. 306102) for a mixed-use development.
- Howth Castle located to the south-east of the site

The potential impacts on people identified in the EIAR, arising from the proposed development, relate to construction traffic, noise and dust nuisance and visual amenity. Most of these issues are addressed in specific chapters within the EIAR, including the risk of major accidents / disasters associated with same. In particular, the access constraints arising in respect of receptors are considered in Chapter 6 - Materials Assets: Traffic & Transport, and impacts arising from the generation of noise and dust are considered in Chapter 2: Development Description (Monitoring - Construction Noise and Dust), Chapter 5: Landscape & Visual (Construction Phase Mitigation), Chapter 11: Biodiversity and Chapter 12: Noise and Vibration and Chapter 13: Air Quality respectively. The visual impacts of the development are considered in Chapter 14 – Landscape and Visual Impact. Chapter 17 deals with Interactions and the Foregoing.

The assessment involved a desktop study of the relevant planning sources and other demographic information relevant to the area outlined in Chapter 2 of this EIAR and information from the Central Statistics Office (CSO).

The construction phase of the proposed development will primarily consist of site clearance, excavation and construction works, which will be largely confined to the proposed development site. Notwithstanding the implementation of remedial and mitigation measures, there will be some minor temporary residual impacts on population (human beings) and human health most likely with respect to nuisance caused by construction activities. It is anticipated that subject to the implementation

of the remedial and mitigation measures proposed throughout the EIAR any adverse likely and significant environmental impacts will be avoided. The construction phase (approx. 18 months) will provide a boost for the local construction sector in terms of employment generation (average of 50 people employed on-site), capital spend on materials and construction labour costs, and it will generate additional spending on the local economy (retail and local shops).

The overall predicted impacts associated with the construction phase on the working population and local economy are likely and will have a positive, temporary/short-term, not significant effect.

The operational phase will accommodate a projected full-time population of approximately 370 persons. The communal amenity space is laid out with a hierarchy of uses including passive recreational areas and play space for children. The inclusion of high-quality landscaping proposals and dedicated play areas is determined to be locally positive with a permanent duration. The Social Infrastructure Audit, submitted with the application, demonstrates that there is sufficient infrastructure within the study area. The proposed development site incorporates dedicated play areas within the communal and public open space, as detailed in the Landscape Plan.

Section 4.5 of the EIAR considers the potential cumulative effects of the approved Claremont scheme at the former Techrete site (Reg. Ref: ABP 306102) together with this proposed development will provide 647 new homes in Howth. Allowing people to live in close proximity to reliable public transport infrastructure (DART Howth Station) will contribute toward reducing dependence on car-based travel and this will be positive in the context of greenhouse gas emission reductions.

Mitigation and monitoring measures are outlined throughout Section 4 of the EIAR and mainly relate to construction management/monitoring measures to protect/control traffic, waste, water, air (dust), noise/vibration, and health & safety. Following implementation of the mitigation measures, the residual effect of the proposed development for population and human health is determined to be significantly positive having regard to the delivery of much needed new homes in a location that has the carrying capacity in terms of both services and amenities to support the population generated by the scheme.

10.24. Assessment: Direct, Indirect, and Cumulative Effects

I have acknowledged the identified impacts and the associated mitigation measures identified in other sections of the EIAR. Apart from the factors discussed in later sections of this EIA, Chapter 4 outlines that any exceedances of relevant limits at sensitive receptors will be only temporary in nature and would not result in significant effects. Mitigation and monitoring measures are also proposed where relevant.

10.25. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that the main significant direct, indirect, and cumulative effects on Population and Human Health are, and will be mitigated as follows:

- Construction related disturbance including noise, dust, dirt, and traffic, which would be mitigated by construction management measures including the agreement of a Construction Environmental Management Plan, a Construction Traffic Management Plan, and a Resource and Waste Management Plan.
- Positive socioeconomic effects through the availability of additional housing and public open space when the development is completed.
- Measures to avoid negative impacts on Population and Human Health are largely integrated into the design and layout of the proposed development. Compliance with the design and layout will be a condition of any permitted development.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to population and human health would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of population and human health.

10.26. Landscape & Visual

10.27. Issues Raised

Fingal County Council refused planning permission as the proposed development would be visually dominant and incongruous within the streetscape and immediate context in addition to being significantly intrusive on the skyline and on approach into and out of Howth village and when viewed from the surrounding coastal area, which is categorised as having an exceptional landscape value. It was specifically stated that development would contravene Objective GINHO55 - Protection of Skylines and

Objective GINHO56 of the Fingal Development Plan 2023-2029 and would therefore materially contravene the RS and HA Zoning Objective of the site. This specific reason for refusal has been discussed in Section 8.2 above and should be read in conjunction with this section of the EIA.

10.28. Examination, analysis and evaluation of the EIAR

Chapter 5 of the EIAR considers the potential significant effects on the landscape, views and visual amenity of the study area of the subject site itself, as well as the surrounding landscape context including views to and from the site from the wider landscape that are considered as representative sensitive receptors. This chapter should be read in conjunction with the verified views/photomontage document, which forms an appendix to the EIAR together with the supplementary Conservation Response and LVIA note that accompanied the first party the appeal response.

The following are the key sensitivities that have been considered in the design process of the proposed development at the subject site at Deer Park to date:

- Historical landscape setting
- Its proximity to protected structures of Howth Castle Demesne Architectural Conservation Area (ACA)
- Its proximity to a High Amenity Area (including a southern portion of the site)
- Its proximity to the Special Amenity Area Order (SAAO) of a large area of Howth Head (including a buffer zone on the southern portion of the site)
- Its proximity to protected /preserved views
- The topography of the site
- Its proximity to Howth Road and adjacent suburban residential development
- Proximity to Howth town and harbour
- The open, coastal landscape character type of the local and wider landscape that is highly sensitive

With regard to its potential landscape and visual effects, the key characteristics of the proposed development are:

- Site layout, height and massing
- Architectural materials and treatments en façade
- Landscape Site Plan proposals for the Deer Park development that accompany this planning submission

This Landscape and Visual Impact Assessment (LVIA) describes the existing receiving environment, contiguous landscape and the methodology utilised to assess the potential impacts of the proposed development. It assesses the visual extent of the proposed development and the proposal's visual effects on key views throughout the study area. This assessment describes the landscape and urban character of the subject site and hinterland, together with the visibility of the site from short, medium and long-distance viewpoints, that represent sensitive receptors in the local and wider landscape. The LVIA summarises the likely effects of the proposed development on the visual and landscape amenity of the subject site and its immediate area.

Twenty-three viewpoints were chosen for the purposes of this visual assessment. The views were chosen as being representative of the key sensitive views in terms of effects on local sensitive receptors and are taken from the public domain, with the exception of View 15 taken from within the castle. The summary of the assessment of the likely potential significant effects of the construction and operational stages are presented in Tables 5.9 to 5.13 of the EIAR. As would be expected the impacts range from no effect, imperceptible and slight to moderate and significant. I also refer to the additional viewpoint prepared in proximity to Muck Rock, albeit at a higher location, given the accessible nature of this location. This additional viewpoint has been considered within the Supplementary Visual Note that accompanied the appeal.

Demolition Phase - With the exception of the removal of sections of the historic wall for pedestrian and vehicular access, demolition works will be largely contained within the site as listed above. Any effects are likely to be short term, terminating at the completion of this phase.

Construction Phase – There is the potential for likely significant and adverse temporary effects on the landscape during the construction stage of the project. The visual effects due to construction are likely to be short term, terminating upon completion of the development.

Operational Phase – It is understood that the proposed development of this type, results in a permanent change and may fundamentally alter the appearance of the landscape. There are no post operational mitigation measures as all mitigation has been considered and designed in during the design and consultation process. Generally, the landscape and visual effects will be considered adverse and moderate to significant in the short term when construction works are underway and will

terminate upon completion of the development. The landscape and visual effects during the operational stage will generally be considered as ranging from having 'No effect' as they will not be visible due to the relative low height of the proposals, to a 'Positive' effect where the proposals can be seen given the well-considered design, site layout and presentation of the scheme as a whole.

The significance of the effects is considered generally as 'Slight' to 'Moderate' where the scheme is visible, mainly from the west and eastern approaches of the Howth Road. Some views of the upper levels of Howth Head will be removed from locations on the Howth Road, but these are not considered to be adversely significant given the visual clutter of the existing overhead wire scape that detracts from these views in the existing scenarios or views. Due to the site layout and relative low height of the proposals, the likely effect on Preserved Views is considered neutral and slight. The visual effect of the local protected structures is also considered neutral and slight. It is considered that the proposed development will not have any significant adverse effects on the landscape and visual amenity of the subject site, adjacent Architectural Conservation Area of the Howth Castle Demesne, or on the small section of the ACA to the northeast, or on residential lands adjacent to the site. It is not anticipated that there will be any significant adverse effects on the cultural heritage or historic landscape context of the subject site, its biodiversity or local residential amenity. It is likely that there will be positive significant effects in the long term on biodiversity, landscape and visual amenity, on the local and future population and human health.

10.29. Assessment: Direct, Indirect, and Cumulative Effects

Mitigation measures are set out in Section 5.9. It is not anticipated that there will be significant adverse effects during the demolition stage of the project as there are no substantial existing buildings to be removed within the site given its greenfield nature. There are no additional mitigation measures proposed during the construction phase other than the standard best practice construction mitigation as outlined. The major visual remediation of the project during the operational phase will be accomplished through the following mitigation measures which have been incorporated into the design:

- Through the positioning of the various elements of the development on site in order to enhance the appearance of the scheme as a whole through the design of the site layout and built form.

- The creation of high-quality public and communal open spaces for the use and amenity of the users of the development and the wider community.
- Through the creation of a universally accessible green public pedestrian route through the development in order to provide safe pedestrian circulation
- The provision of a new vehicular access point from Howth Road
- The retention of existing trees and perimeter hedgerows where feasible. Existing planting will be enhanced and strengthened by additional planting of native broadleaf species and dense woodland and understory planting. The retention of existing trees and hedgerows is important for the protection of local foraging and commuting bat populations as well as existing green infrastructure.
- Monitoring, maintenance and management of the existing tree and hedgerow canopy.

The above 'designed in' or incorporated mitigation will ensure that the developments' landscape effects will be considered positive once construction phase is completed and the development is operational.

There are no post operational mitigation measures as all mitigation has been considered and designed in during the design and consultation process. The landscape and visual effects will be considered adverse and moderate to significant in the short term when construction works are underway and will terminate upon completion of the development. The landscape and visual effects during the operational stage will generally be considered as ranging from having 'No effect' as they will not be visible due to the relative low height of the proposals, to a 'Positive' effect where the proposals can be seen given the well-considered design, site layout and presentation of the scheme as a whole.

The cumulative effects are considered mainly in the form of the Claremont scheme currently under construction on the north side of Howth Road. The scheme will be 4-8 storeys in height when complete and will be substantially higher and visible in the landscape and against the seascape and coastline that than proposed scheme at the subject site. The proposed development at the Deer Park site will be largely visually absorbed and visually contained within its landscape setting due to the presence and retention of trees to the south, southeast and east of the site itself. The two

developments when complete will transform a suburban road corridor into Howth town and harbour, currently in transition in terms of landscape character, to an urbanised road/streetscape. This will be seen as an expansion of the built environment of Howth town as a metropolitan urban area along the Howth Road corridor.

10.30. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to landscape would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on landscape are identified. I am satisfied overall with regard to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of landscape.

10.31. Material Assets (Traffic & Transport, Built Services and Waste)

10.32. Issues Raised

No specific issues have been raised in relation to this matter.

10.33. Examination, analysis and evaluation of the EIAR

Chapter 6 of the EIAR considers the potential impacts on Material Assets: Traffic & Transport. This section of the report assesses and evaluates the likely impact of the proposed development on the existing transportation system in the vicinity of the site, as well as identifying proposed mitigation measures to minimise any identified. The material assets considered in the traffic and transport section include pedestrian, bicycle, public transport infrastructure and associated services in addition to the local road network and associated junction nodes.

Chapter 7 of the EIAR considers the potential impacts on Material Assets: Built Services. This chapter of the EIAR assesses and evaluates the likely impact of the proposed development on existing surface water and foul drainage and utility services in the vicinity of the site during both the construction and operational phases, as well as identifying the nature of any impacts and providing the necessary mitigation measures arising from the proposed development. The material assets considered in

this chapter include Surface Water Drainage, Waste Water Drainage, Water Supply, Electrical Supply, Telecommunications and Gas Supply.

Chapter 8 of the EIAR considers the potential impacts on Material Assets: Waste. This chapter evaluates the likely impacts, if any, which the proposed development may have on Material Assets (related to waste management). This chapter also addresses the issues associated with waste management during the construction and operational phases of the proposed development. A site-specific Resource Waste Management Plan (RWMP) has been prepared for the construction phase and an Operational Waste Management Plan (OWMP) has been prepared for the operational phase of the proposed Development.

10.34. Assessment: Direct, Indirect, and Cumulative Effects

Material Assets: Transportation – The main potential impact is from construction traffic and trip generation at the operational stage. Construction Management Plan will be prepared as part of the planning application with an associated Construction Traffic Management Plan (CTMP) which will incorporate a range of integrated control measures and associated management activities with the objective of minimising the construction activities associated with the development. Mitigation measures proposed for the construction and operational phase are set out in Section 6.10 of the EIAR. Provided the above mitigation measures and management procedures are incorporated during the construction phase, the residual impact on the local receiving environment will be temporary in nature and neutral in terms of quality and effect. No impact interactions have been identified and it is considered that any minor impacts will be avoided through the implementation of best working practices as stipulated within the Construction Traffic Management Plan and Mobility Management Plan prepared in support of the proposed development.

Material Assets: Built Services – The main potential impact is from surface water drainage and wastewater drainage. Mitigation measures proposed for the construction phase are set out in Section 7.9. All mitigation measures are standard and what would be expected of a development of this nature at this location. Implementation of the measures outlined will ensure that the potential impacts of the proposed development on the site's material assets do not occur during the construction phase and that any residual impacts will be short term.

Material Assets: Waste – The main potential impact is from the demolition phase, construction phase site levelling / removal and waste and at operational phase, waste generation, segregation (at source), storage and collection. Mitigation measures for the construction phase are set out in Section 8.9 of the EIAR. Other developments in the area, will be required to manage waste in compliance with national and local legislation, policies and plans which will minimise/mitigate any potential cumulative impacts associated with waste generation and waste management. As such the effect at the construction phases will be short-term, imperceptible and neutral and at the operational phase will be a long-term, imperceptible and neutral.

10.35. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to material assets (Traffic & Transport, Built Services and Waste) would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on material assets (Traffic & Transport, Built Services and Waste) are identified. I am satisfied overall with regard to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of material assets (Traffic & Transport, Built Services and Waste).

10.36. Land & Soil

10.37. Issues Raised

No specific issues have been raised in relation to this matter.

10.38. Examination, analysis and evaluation of the EIAR

Chapter 9 of the EIAR deals with land and soil. A traditional demolition phase is not proposed as the removal works are limited to interventions in the existing boundary wall to facilitate access. Following the completion of site clearance and levelling, all structures will require traditional strip and pad foundations to be installed in accordance with the structural engineer specifications. Foundations will require moderate scale excavations, with formation levels extending to c. 2.5m BEGL founding within the stiff to very stiff boulder clays. Rock excavation will not be required

and temporary works such as sheet piling, or continuous flight auger or secant piling are not required. It is expected during the excavation works that localised dewatering of the subsoils will be required to address perched groundwater as an indirect effect. It can be expected minor ingress of rainfall in the excavation during construction phase.

During construction of the development, there is a risk of accidental pollution incidences from the following sources if not adequately mitigated:

- Spillage or leakage of oils and fuels stored on site.
- Spillage or leakage of oils and fuels from construction machinery or site vehicles.
- The use of concrete and cement during pad foundation construction.

The change of land use from greenfield to residential is the main effect on the land environment. Potential for negative impacts on subsoils, geology and hydrogeology during operation are low. The storage volume of any liquid hazards is low and there will be no direct discharges to the water or soil environment during the operational phase. Leakage of petrol/ diesel fuel may occur from car park/road areas. However, given the petrol/oil interceptor system considered in the design (SuDS elements), this effect is considered unlikely. The implementation of the SuDS elements and the increasing of hard standing areas in 5,065m² decrease the potential vulnerability of the subsoils and groundwater regime. Therefore, these design measures are considered a positive effect on this component.

Section 9.9 of the EIAR sets out the Mitigation Measures, which will address potential impacts relating to the demolition and construction phase. The proposed development will be designed in accordance with the principles of Sustainable Drainage Systems (SuDS) as embodied in the recommendations of the Greater Dublin Strategic Drainage Study (GDSDS) and will maintain run-off rates at the existing greenfield condition and improve storm water quality discharging to the public storm water system.

Excavation will require soil excavation and infill. Testing will be carried out in pre-construction works by the contractor to determine the soil classification, i.e. inert, non-hazardous or hazardous. Any discharge of construction surface water or groundwater from excavations shall pass through appropriate filtration and sedimentation system,

designed in accordance with “Control of Water Pollution from Construction Sites, Guidance for Consultants and Contractors (CIRIA C532)”. A Construction Environmental Management Plan (CEMP) will incorporate the mitigation measures outlined and will be adopted by the construction contractor prior to commencement of construction. To minimise any impact on the underlying subsurface strata from material spillages, all oils, solvents and paints used during construction will be stored within temporary bunded areas.

No mitigation measures have been considered during the operational phase as the SuDS elements incorporated in the design addresses any potential leakage from car park areas. As stated above, these measures ensure that any potential pollutants associated with car park areas will be captured, conveyed, stored, intercepted and removed.

10.39. Assessment: Direct, Indirect, and Cumulative Effects

I am satisfied that the loss of such land/soil is unavoidable in the event of a grant of permission and that any such loss would not result in any unacceptable environmental effects if it was deemed to be in accordance with the proper planning and sustainable development of the area.

With appropriate mitigation measures implemented during the demolition and construction phase, the potential impact on land, soils and geology during construction is considered to have a short term, imperceptible significance.

The operational phase of the development is unlikely to have any significant adverse impacts on the local geological/hydrogeological environment due to the environmental considerations incorporated into the design. These measures will seek to avoid or minimise potential effects, in the main, through the implementation of best practice construction methods and adherence to all relevant legislation.

10.40. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to land and soil would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on land and soil are identified. I am satisfied overall with regard

to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of land and soil.

10.41. Water

10.42. Issues Raised

No specific issues have been raised in relation to this matter.

10.43. Examination, analysis and evaluation of the EIAR

Chapter 10 of the EIAR deals with water and comprises of an assessment of the likely impact of the proposed development on the surrounding hydrogeological environments (including flood risk, surface water drainage, foul drainage and water supply), as well as identifying proposed mitigation measures to minimize any impacts.

Potential impacts that may arise during the construction phase relate to surface water runoff, accidental spills and leaks, increase of sediments in run-off, spillage of fuels stored on site, spillage of fuels from construction vehicle and spillage of concrete. Potential for likely significant impacts during operation are low and for water quality impact is negligible. Leakage of petrol/ diesel fuel may occur from car park/road areas. The development will be fully serviced with separate wastewater and stormwater sewers which will have adequate capacity for the facility and discharge limits as required by Uisce Éireann licencing requirements. The wastewater discharge from the site will join the public sewer and will be treated at the Uisce Éireann Ringsend Wastewater Treatment Plant (WwTP) prior to subsequent discharge to Dublin Bay. This WwTP is required to operate under an EPA licence and meet environmental legislative requirements as set out its licence. During the operational phase, there will be an increase in demand on water supply and wastewater public services. However, Uisce Éireann has confirmed that the public networks have sufficient capacity to accommodate the demand from the proposed development

The Site Specific Flood Risk Assessment confirms there is no risk of flooding affecting the site from fluvial or coastal sources, since the site lies within Flood Zone C (i.e., where the probability of flooding from rivers is less than 0.1% or 1 in 1000). There is no evidence that the Bloody Stream results in any flooding on the proposed site, and it is separated by the west boundary of St. Marys Church and the access road to Howth Castle which would divert any flood water towards Howth Road. Therefore, the

likelihood of flooding on site is low from either Tidal, Fluvial, Pluvial Surface Water or Groundwater.

10.44. Assessment: Direct, Indirect, and Cumulative Effects

Mitigation measures are set out in Section 10.9. The proposed development will be designed in accordance with the principles of Sustainable Drainage Systems (SuDS) as embodied in the recommendations of the Greater Dublin Strategic Drainage Study (GDSDS) and will maintain run-off rates at the existing greenfield condition and improve storm water quality discharging to the public storm water system. These elements will intercept any potential leakage of fuel from car park areas.

A Construction Environmental Management Plan (CEMP) is included with the planning application and will be adopted by the construction contractor prior to commencement of construction. The CEMP incorporates the mitigation measures outlined as they relate to the construction phase. The CEMP will include emergency response procedures in the event of a spill, leak, fire or other environmental incident related to construction. This is an active document which will be continuously updated to manage risk during the construction programme. All relevant personnel working on the site will be trained in the implementation of the procedures.

No mitigation measures have been considered during the operational phase as the SuDS elements incorporated in the design, and presented in the Infrastructure Design Report, address any potential hydrocarbon leakage from the proposed basement car park. There are no other potential hazards during operation.

Overall, there are no significant residual impacts on hydrology anticipated and there will be no impact to the existing WFD Status of water bodies associated with the proposed development as a result of the Proposed Development taking account of design avoidance and mitigation measures where required.

10.45. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to water would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on water are identified. I am satisfied overall with regard to the

above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of water.

10.46. Biodiversity, with Particular Attention to Species and Habitats Protected Under Directive 92/43/EEC and Directive 2009/147/EC

10.47. Issues Raised

No specific issues have been raised in relation to this matter.

10.48. Examination, analysis and evaluation of the EIAR

Chapter 11 of the EIAR addresses biodiversity and details the methodology of the ecological assessment. An AA Screening Report and NIS has been submitted as part of the application and a Stage 2 AA has been undertaken (see Section 9.0 above).

A detailed desk study, in combination with a suite of field surveys, was carried out. Field surveys included: habitat/flora (including rare/invasive plant species) surveys, breeding bird surveys, wintering bird surveys, mammal surveys and bat surveys. All surveys were carried out at the appropriate time of year, and no limitations were encountered in the preparation of this Chapter.

The potential for European or 'Natura 2000' sites to be impacted by the Proposed Development was assessed separately to this EIAR Biodiversity Chapter in the Appropriate Assessment (AA) Screening and Natura Impact Statement (NIS) reports that accompany this application under separate cover. These sites, namely Special Protection Areas (SPAs) and Special Areas of Conservation (SACs), are therefore not assessed again as part of this Chapter. The following additional designated sites that are not designated as European sites e.g., Natural Heritage Areas (NHAs), proposed NHAs (pNHAs) and Ramsar sites, were considered in this Chapter: Skerries Island NHA (001218), Baldoyle Bay pNHA, Howth Head pNHA, North Dublin Bay pNHA, Ireland's Eye pNHA, Malahide Estuary pNHA, South Dublin Bay pNHA, Lambay Island pNHA, Rogerstown Estuary pNHA; Baldoyle Bay Ramsar Site (413), Broadmeadow Estuary Ramsar Site (833), North Bull Island Ramsar Site (406), Sandymount Strand/Tolka Estuary Ramsar Site (832) and Rogerstown Estuary Ramsar Site (412).

The AA Screening ruled out all pathways to European sites with the exception of an indirect Construction Phase surface water connection between the Site and Baldoyle

Bay SAC (000199) and the North-west Irish Sea SPA (004236) should sediment/pollutants enter the local surface water drainage network. Although considered unlikely, this has been addressed through Construction Phase surface water mitigation measures in the NIS. The other non-European designated sites considered as part of this Chapter overlap with those SACs and SPAs assessed in the AA Screening and NIS and are designated for the same reasons e.g., the same waterbird species, habitats etc. The AA Screening and NIS therefore have assessed the potential impact of the Proposed Development on these other designated sites (NHAs, pNHAs, Ramsar sites) by proxy and they do not require further assessment as part of this Chapter. Therefore, no designated Sites are considered further as key ecological receptors (KERs) in this Chapter.

No rare or protected plant species were recorded on site. Three non-native plant species were recorded along the northern site boundary wall, namely, sycamore (*Acer pseudoplatanus*), butterflybush (*Buddleja davidii*) and Himalayan honey-suckle (*Leycesteria formosa*). None of these species are listed on the Third Schedule of S.I. 477/2011 and are considered to be 'risk of medium impact' invasive species.

Bat surveys undertaken in 2019, 2020 and 2023 recorded a total of four bat species: common pipistrelle (*Pipistrellus pipistrellus*), soprano pipistrelle (*Pipistrellus pygmaeus*), Leisler's Bat (*Nyctalus leisleri*), and brown long-eared bat (*Plecotus auritus*) at or in the vicinity of the Site. The results of the activity surveys indicate a low level of bat activity at the Site. The trees on site hold negligible – low bat roost potential and the mature trees along the site's eastern boundary provide low bat roost potential. The vegetation features that make up the Site's boundaries provide moderate foraging and commuting habitat for local bats, with good connectivity to adjacent scrub, woodland, hedgerow and treelines habitats to the west, south and east of the Site. The central portion of the site is open field and provides minimally suitable foraging/commuting habitat. The site is considered to be of local importance (higher value) to the local bat population due to the presence of this suitable habitat.

Breeding bird activity was confirmed at the Site for two Green-listed species: blue tit (*Cyanistes caeruleus*) and magpie (*Pica pica*). No Amber-listed or Red-listed species of conservation concern in Ireland or Annex species under the EU Birds Directive were observed breeding on Site during the breeding bird surveys. The Site provides suitable foraging and nesting habitat for the majority of species recorded; through its

hedgerow and woodland habitats and is therefore considered to be of local importance (higher value) to breeding birds. No SCI bird species listed for nearby SPAs were recorded utilising the Site over the course of the 2023/24 winter bird surveys.

Limited evidence of mammal activity was observed during surveys of the Site. No signs of badger were observed. No signs of otter were recorded during the field surveys and the site does not contain suitable habitat for this species. The site is considered to be of local importance (higher value) to badger and West European hedgehog. No evidence of common Frog was recorded at the Site, and it is highly unlikely that a locally important population of breeding frogs is present at the Site, given the lack of suitable habitat. No protected fish or invertebrate species are considered to be at risk from the Proposed Development.

10.49. Assessment: Direct, Indirect, and Cumulative Effects

Potential Construction Phase impacts, in the absence of mitigation, were identified and can be summarised in quality and extent as ranging from negative, short-term, slight to significant at the local scale. These potential Construction Phase impacts take the form of habitat loss or damage, increases in noise emissions, direct mortality or disturbance of breeding birds, bats and/or mammals during vegetation clearance; inadvertent spread of invasive flora, entrapment of mammals in excavations and construction-related rubbish and light pollution impacts to nocturnal species e.g., bats. Potential Operational Phase impacts in the absence of mitigation, were identified and can be summarised in quality and extent as ranging from negative, long-term, slight to moderate at the local scale. A positive long-term, slight impact at the local scale was also identified as a result of the landscape plan proposed for the Site which includes an increase in tree-cover/habitat diversity. Operational Phase Impacts can be summarised as: a loss of habitat connectivity to mammals e.g., hedgehog and badger, and an overall increase in tree planting and diversity of habitats across the Site.

Mitigation measures are set out in Section 11.11. The public lighting design has been prepared with input from the Project Ecologist. As a result of this embedded mitigation Operational Phase impacts to bats via lighting will not occur and no additional mitigation is required. Enhancement measures include 32 'swift bricks' included within the apartment block facades and eight bat boxes located on suitably mature trees

along the southern woodland belt; to provide new nesting and roosting habitat for both endangered swifts (*Apus apus*) and the bats that utilise the Site. The preparation of a Biodiversity Hedgerow and Woodland Management Plan for the site by an ecologist will maximise the ecological value of these habitats on site for the lifetime of the proposed development.

The Construction Phase mitigation measures recommended to address potential impacts include: a pre-commencement invasive plant species survey, Construction Phase tree protection, bat-friendly Construction Phase lighting, the timing of clearance works to take into account the breeding bird season and the hibernation season for mammals, bat precautions when felling trees, and the management of the construction site for mammals (including pre-clearance badger survey). An Ecological Clerk of Works (ECoW) will be instructed to ensure the surveys and mitigation measures are followed as part of the Construction Phase

Operational Phase impacts are mitigated by way of the provision of suitably sized 'hedgehog highways' along the boundary fencing to allow hedgehog and badgers to continue to access the Site.

10.50. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to biodiversity would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on biodiversity are identified. I am satisfied overall with regard to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of biodiversity.

10.51. Noise & Vibration

10.52. Issues Raised

No specific issues have been raised in relation to this matter.

10.53. Examination, analysis and evaluation of the EIAR

Chapter 12 of the EIAR considers the potential impacts on noise. This chapter includes a description of the receiving ambient noise climate in the vicinity of the

subject site and an assessment of the potential noise and vibration impact associated with the proposed development during both the short-term construction phase and the long-term operational phase on its surrounding environment. Baseline noise and vibration surveys have been undertaken at the proposed development site and locality to characterise the noise and vibration environment.

The general construction phase will involve site clearance, building construction works and landscaping, the assessment has determined that there is the potential for a not significant, negative, slight to moderate significance, and short term effect of noise impacts when works are undertaken within close proximity (25 – 40 m) of the nearest noise sensitive residential locations.

Similarly, vibration impacts during the construction phase will be well controlled as there are no activities on site that have the potential to generate significant levels of vibration at the nearest noise sensitive locations. The impact associated with vibration is determined to be negative, not significant and Long Term.

During the operational phase, the predicted change in noise levels associated with additional traffic in the surrounding area required to facilitate the development is categorised as not Significant, negative, imperceptible and long-term. The predicted change in noise levels associated with mechanical and electrical services during the operational stage are determined to be negative, long term and not significant.

10.54. Assessment: Direct, Indirect, and Cumulative Effects

The proposed development will result in some impacts to noise levels during the construction phase and to a significantly lesser degree during the operational phase. Mitigation measures are set out in Section 12.6 of the EIAR in order to reduce potential impacts as far as practicable to within the adopted criteria for noise and vibration. Noise control measures that will be considered include the selection of quiet plant; noise control at source; screening; liaison with the public, and; monitoring. The use of best practice noise control measures, hours of operation, scheduling of works within appropriate time periods, strict construction noise limits and noise monitoring (where required) during this phase will ensure impacts are controlled to within the adopted criteria.

At operational stage, cumulative noise impacts associated with the proposed development and other developments in the area are most likely to be associated with

increase noise associated with traffic. An increase +3 dB represents a worst case scenario of a doubling in volume of traffic, representing a perceptible change with moderate impact, moderate significance and long-term. A highly unlikely scenario. The effect associated with building services plant, once designed to achieve the relevant noise criteria, is categorised as negative, imperceptible and long-term.

During the operational stage the dominant inward noise on the development will be associated with traffic on the Howth Road and aircraft and rail noise. The ProPg assessment has determined that the development site is categorised as a low to high Risk in accordance with ProPG.

Mitigation measures such as enhanced ventilation and glazing specifications have been proposed that would allow for good internal noise levels.

Prevailing vibration levels across the site are an order of magnitude lower than the level required to affect any damage to buildings in the proposed development. The effect of impact is therefore Imperceptible, Not Significant and Long Term

10.55. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to noise would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on noise and vibration are identified. I am satisfied overall with regard to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of noise and vibration.

10.56. Air

10.57. Issues Raised

No specific issues have been raised in relation to this matter.

10.58. Examination, analysis and evaluation of the EIAR

Chapter 13 of the EIAR considers the potential impacts on air quality and comprises of an assessment of the likely impact of the proposed development on air quality. Air quality in the area is generally good, with concentrations of the key pollutants

generally well below the relevant limit values. The surrounding area was assessed as being of medium sensitivity to dust soiling and of low sensitivity to dust-related human health effects.

The sensitivity of the area was combined with the dust emission magnitude for the site under three distinct categories: earthworks, construction and track out (movement of vehicles) in order to determine the mitigation measures necessary to avoid significant dust impacts. It was determined that there is at most a medium risk of dust related impacts associated with the proposed development. In the absence of mitigation there is the potential for direct, short-term, negative, and slight impacts to air quality. In addition, construction phase traffic emissions have the potential to impact air quality, particularly due to the increase in the number of HGVs accessing the site.

Operational phase traffic has the potential to impact air quality due to vehicle exhaust emissions as a result of the increased number of vehicles accessing the site. The change in traffic associated with the operational phase of the proposed development did not meet the PE-ENV-01106 criteria requiring a detailed air dispersion modelling assessment. Therefore, it can be determined that during the operational phase, the proposed development will have a direct, long-term, neutral and imperceptible impact on air quality.

10.59. Assessment: Direct, Indirect, and Cumulative Effects

For the Construction Phase mitigation measures are outlined within Section 13.9.1. The proposed development has been assessed as having a medium risk of dust soiling impacts and a low risk of dust related human health impacts during the construction phase as a result of earthworks, construction and track out activities. Mitigation measures shall be implemented during the construction phase of the proposed development and include communication plans, site management, preparing and maintaining the site, operating vehicles / machinery and sustainable travel, operations, waste management, measures specific to earthworks, measures specific to construction, measures specific to track out and monitoring. These measures are appropriate for sites with a medium risk of dust impacts and aim to ensure that no significant nuisance occurs at nearby sensitive receptors. These measures will be incorporated into the overall Construction Environmental Management Plan (CEMP) prepared for the site.

For the Operational Phase, there is no mitigation required as effects on air quality are predicted to be direct, long-term, negative and imperceptible, which is overall not significant in EIA terms.

The predicted residual, dust-related, human health effect of the construction phase of the proposed development is direct, short-term, negative and not significant, which is overall not significant in EIA terms. The operational phase effect on air quality and human health as a result of increased traffic is direct, long-term, negative and imperceptible, which is overall not significant in EIA terms.

The effect of construction of the proposed development is likely to be direct, short-term, negative and not significant which is overall not significant with respect to human health.

Traffic related air emissions have the potential to affect air quality which can affect human health. As the operational phase assessment has predicted that emissions of air pollutants from vehicle exhausts are significantly below the ambient air quality standards which are based on the protection of human health, effects on human health are direct, long-term, negative and not significant, which is overall not significant in EIA terms.

10.60. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to air would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on air quality are identified. I am satisfied overall with regard to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of air quality.

10.61. Climate

10.62. Issues Raised

No specific issues have been raised in relation to this matter.

10.63. Examination, analysis and evaluation of the EIAR

Chapter 14 of the EIAR considers the potential impacts on climate. I also refer to the Energy Analysis Report submitted with the application.

The potential impacts on climate have been assessed in two distinct ways – a greenhouse gas assessment (GHGA) and a climate change risk assessment (CCRA). The GHGA quantifies the GHG emissions from a project over its lifetime and compares these emissions to relevant carbon budgets, targets and policy to contextualise magnitude. The CCRA considers a projects vulnerability to climate change and identifies adaptation measures to increase project resilience.

A number of best practice mitigation measures proposed for the construction phase of the proposed development to ensure that impacts to climate are minimised are set out in Section 14.10 of the EIAR.

The proposed development has incorporated a number of sustainability measures into the design of the development which will aid in reducing impacts to climate once operational. The proposed development is predicted to have at most low vulnerabilities to the various climate hazards and therefore climate change risk is not considered significant. Overall, no significant impacts to climate are predicted during the construction or operational phases of the proposed development.

10.64. Assessment: Direct, Indirect, and Cumulative Effects

The proposed development will result in some impacts to climate through the release of GHGs. The proposed development has been designed to reduce the impact on climate where possible during operation. Once mitigation measures are put in place, the effect of the proposed development in relation to GHG emissions is considered direct, long-term, negative and slight. It is stated that overall, this is not significant in EIA terms. In relation to climate change vulnerability, it has been assessed that there are no significant risks to the proposed development as a result of climate change.

The cumulative impact of the proposed development in relation to GHG emissions is considered direct, long-term, negative and slight, which is overall not significant in EIA terms.

10.65. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to climate would be avoided, managed, and

mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on climate are identified. I am satisfied overall with regard to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of climate.

10.66. Cultural Heritage - Archaeology

10.67. Issues Raised

The Department of Housing, Local Government and Heritage recommended that a condition for an Archaeological Assessment with post-demolition testing, be attached to any grant of planning permission. This matter is discussed separately in Section 8.55 of this report above where it was recommended that should the Board be minded to grant permission that the standard Board condition in this regard be attached. Condition No 20 as set out in the recommendation below refers.

10.68. Examination, analysis and evaluation of the EIAR

Chapter 16 of the EIAR considers the potential impacts on Archaeology. The report includes a desktop survey and a site inspection, and assesses the potential significance and likely impact of the proposed development, and of the cumulative development, on cultural heritage, including archaeological and architectural heritage. Field walking and archaeological testing was undertaken at the site.

The proposed development is not adjacent to any archaeological monuments. The closest site is located 80m to the east namely St. Marys Church which is listed in the RMP for Co. Dublin. Howth Castle is located to the south and contains a number of monuments listed in the RMP. The townland also contains a Neolithic Dolmen 800m south of the development.

Works to date have not identified any archaeological remains in the study area. This includes the geo physical survey and archaeological testing that has taken across the site. There is however potential for further remains to be identified during construction works. Archaeological remains may exist within the site and be preserved below the current ground level. Excavation works may expose these remains. Development at the site would have a profound effect on any unrecorded sub surface remains.

10.69. Assessment: Direct, Indirect, and Cumulative Effects

In the event of a grant of planning permission it is recommended that, a programme of archaeological testing be carried out across the site prior to any further groundworks on site. This aligns with the recommendations set out in Section 8.55.

10.70. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that the main significant direct, indirect, and cumulative effects on Archaeology are, and will be mitigated as follows:

- Disturbance of unrecorded archaeological features as a result of construction stage excavation and groundworks, which will be mitigated by a range of measures including the retention/protection of important features, further archaeological testing and monitoring, and the recording of archaeological remains.

Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to Archaeology would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on Archaeology are identified. I am satisfied overall with regard to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Archaeology.

10.71. Cultural Heritage - Built Heritage

10.72. Issues Raised

Fingal Conty Council refused planning permission as the scale, form, massing and overall height of the proposed development would fail to respond to the baseline environment and surrounding historical and natural environment of the site which is located within a designated Highly Sensitive Landscape, the Buffer Zone for the Howth Special Amenity Area Order, adjoins Howth Castle Architectural Conservation Area and lands zoned for High Amenity in the Fingal County Development Plan 2023-2029, is part of the historic demesne lands of Howth Castle, a Protected Structure, and is in the vicinity of a number of other Protected Structures including Howth Castle and St. Marys Church. The reason for refusal further stated that the development would be contrary to Policy CSP22-Howth and Objective HCAO24 of the Fingal County Development Plan 2023-2029 and to the 'Urban Development and Building

Heights Guidelines for Planning Authorities, 'Sustainable Residential Development and Compact Settlement Guidelines, and the 'Architectural Heritage Protection Guidelines for Planning Authorities'. This specific reason for refusal has been discussed in Section 8.2 above and should be read in conjunction with this section of the EIA.

10.73. Examination, analysis and evaluation of the EIAR

Chapter 16 of the EIAR considers the potential impacts on Built Heritage. The report includes a desk-based research and site survey/investigation. The assessment examines the landscapes, buildings and structures on and in the vicinity of the proposed site and assesses the significance of those structures with the anticipated effect of the proposed residential development on their character, special interest and setting.

The subject site historically was part of Howth Castle demesne, the remains of which are recognised as a designed landscape of National Importance. Howth Castle is a protected structure and a recorded monument, rated of national importance by the NIAH for reasons of archaeological, architectural and artistic interest. The historic curtilage of the castle was impacted by piecemeal developments along Howth Road, and later was substantially altered with the construction of Deer Park Golf Course. This is acknowledged in the Howth Castle ACA Statement of Character which defines the curtilage of the castle in the modern context. The proposed site is largely outside of the boundary of Howth Castle ACA, but it remains within the attendant grounds of the protected structure.

The historic land-use was a deer park, characterised by open pasture with strong boundaries. The extant boundary wall is a legacy feature of this use, and is the only feature of built-heritage interest identified within the proposed site boundary.

The proposed site is directly to the west of Howth Castle gate, and within the setting of St. Mary's Church (a protected structure rated of regional importance by the NIAH for reasons of Architectural, Artistic, Social and Technical Interest). Recorded monuments within Howth Castle ACA include a Church in ruins, which is to the south of the proposed site, and Corr Castle to the west. The historic architectural and visual relationships between these features and the proposed site has been lost in recent times, by the construction of the Golf Course, and modern apartment buildings

Sensitive views, which include the proposed site, were identified during the design and pre-planning consultation processes. They include protected views to and from the Howth Castle ACA. Other views of the proposed site from within the castle grounds, including views from the castle, from the southern boundary of the National Transport Museum, from the ruined medieval church in the grounds of the castle and along the entrance avenue have also been assessed. Wide angle views towards the site from higher ground at the Deer Park Hotel, looking towards and across the castle building complex were examined with views of the site along Howth Road, on approach to and exit from Howth Village, on approach to and exit from the castle entrance and from St. Mary's church yard.

10.74. Assessment: Direct, Indirect, and Cumulative Effects

During the construction phases one feature of architectural interest was identified on the subject site, which has the potential to be directly impacted during the construction phase. This is the boundary wall to the north and east of the site, which formed part of the historic deer park, and demesne boundary along Howth Road, beside the main entrance gates to Howth Castle.

During the operational phase two features were identified which have the potential to be directly impacted during the operational phase of the proposed development. These are the demesne wall, the proposed alterations of which is described above, and the Howth Castle ACA.

There is potential for a cumulative impact on the setting of the Castle Gate, on St. Mary's Church and on the Howth Castle ACA due to the urbanising impact of the Claremont SHD and the proposed development.

Mitigation measures are set out in Section 16.3. The design of the site, and the layout of the proposed buildings has been carefully considered with regard to the visual impact of the development on the sensitive setting of neighbouring protected structures, the Howth Castle ACA and other significant views and vistas within the receiving environment.

One feature of built heritage interest was identified, which will be directly impacted during the construction phase of the proposed development. This is the demesne wall which is to be altered to facilitate new pedestrian and vehicular entrances. The predicted pre-mitigation construction phase impact is negative, significant and

permanent. The proposed openings in the demesne wall are minimal, and required to allow for safe pedestrian, bicycle and vehicular access to the site. They will read as minimal, modern interventions into the historic fabric to distinguish between new and old.

There are no mitigation proposals for the operational phase of the proposed development, since the likely negative, significant effects arising as a result of the proposed development have been incorporated into the design mitigations.

With mitigation, no significant adverse construction phase effects are predicted as a result of the proposed development. Taking account of the incorporated design mitigation, no significant adverse operational phase effects are predicted as a result of the proposed development. The anticipated residual effect on the setting of Howth Castle ACA, on the setting of St. Mary's Church and on the setting of Howth Castle Gate is neutral, moderate and long-term. The anticipated residual effect on views from the entrance avenue to Howth Castle, is neutral, significant and long-term. The anticipated residual effect on views towards the proposed site from within Howth Castle ACA is neutral, slight and long-term.

The proposed works to the northern boundary wall are to be carried out under the supervision of a Conservation Architect and in line with the method statement included in Appendix 16-3 of the EIAR.

10.75. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that there would be no significant direct, indirect, or cumulative effects as a result of the proposed development. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to Built Heritage would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. No significant residual or cumulative impacts on Built Heritage are identified. I am satisfied overall with regard to the above assessment that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of Built Heritage.

10.76. Interactions

10.77. Issues Raised

No specific issues have been raised in relation to this matter.

10.78. Examination, analysis and evaluation of the EIAR

Chapter 17 of the EIAR summarises the interactions and cumulative effects between different aspects of the environment likely to be significantly affected by the proposed development. The potential significant effects of the proposed development and the measures proposed to mitigate have been outlined in the preceding sections of this EIA. The cumulative impacts have already been addressed in relation to each individual environmental factor. The primary interactions can be summarised as follows:

- Noise, air, waste, water and traffic with population and human health
- Land and soils with traffic, water, resource management, noise, air and biodiversity
- Water with biodiversity
- Waste with biodiversity
- Cultural heritage and the landscape
- Air quality and climate and traffic

During the Operational Phase, it is anticipated that water and traffic will be the key environmental factors impacting upon population and human health as a new residential landscape will be created. The increase in population will result in increased traffic and increased demands on water supply and increased requirements for wastewater treatment. These are addressed in the appropriate sections of the EIAR and in the foregoing. Where any potential negative effects have been identified during the assessment process, these impacts have been avoided by design or reduced by the proposed mitigation measures. Table 17.1 of the EIAR provides a summary of the potential interactions anticipated from the proposed development.

10.79. Assessment: Direct, Indirect, and Cumulative Effects

All mitigation measures relating to the construction and operational phases of the Proposed Development are set out in the relevant chapters of this EIAR. Chapter 18 of the EIAR presents a compilation of these measures, grouped according to environmental field/topic in a format which provides an easy to audit list that can be reviewed and reported on during the future phases of the project.

10.80. Conclusion: Direct, Indirect, and Cumulative Effects

I consider that, subject to the proposed mitigation measures and the recommended conditions of any permission, there would be no significant direct, indirect, or cumulative interactive effects as a result of the proposed development.

10.81. Reasoned Conclusion on the Significant Effects

10.82. Having regard to the examination of environmental information set out above, including the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and public in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- **Population and Human Health** – A positive impact with regard to population and material assets due to the increase in housing stock and facilities that would be made available in the area. Construction related disturbance including noise, dust, dirt, and traffic, which would be mitigated by construction management measures including the agreement of a Construction Environmental Management Plan, a Construction Traffic Management Plan, and a Resource and Waste Management Plan.
- **Traffic and Transport** - Potential for moderate short-term negative impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area in the operational phase and any potential impact will be mitigated by way of design and implementation of a Mobility Management Strategy for the development.
- **Biodiversity** - Disruption to birds and bats due to the construction works, lighting, dust, and the loss of vegetation. This will be mitigated by the employment of good practice construction measures to reduce disruption, including pre-construction surveys and monitoring by the project ecologist, and by the design of the proposed scheme (including lighting and landscaping) which will retain and protect important habitats, and features. Impacts on water quality and the aquatic environment as a result of silt laden and contaminated runoff, which will be mitigated by standard good practice construction stage measures and the operational surface water drainage system.

- **Water** - Construction stage impacts on groundwater and surface water quality, which will be mitigated by standard good practice construction stage measures including a Construction Environmental Management Plan. Operational stage surface water discharges to groundwater including associated downstream impacts on biodiversity, which will be mitigated by the implementation of suitably designed Sustainable Urban Drainage System (SuDS) measures.
- **Air & Climate** – Potential negative effects arising from noise and air during the construction and operational phases, which will be short term in nature and will be mitigated by appropriate construction management and design measures outlined in the relevant section of the EIAR. Operational effects will be longer term but will be mitigated through design and operational practices and are not considered to be significant.
- **Archaeology** - Disturbance of recorded and unrecorded archaeological features as a result of construction stage excavation and groundworks, which will be mitigated by a range of measures including the retention/protection of important features, further archaeological testing and monitoring, and the recording of archaeological remains.
- **Landscape** – There will be changed views from various locations given the change from a green field site to a high rise residential development. The site is zoned for development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists and is under construction in the immediate and wider area. The potential impact will be positive. Changes to the localised landscape character associated with the development of this site, which will be mitigated by the design and layout of the proposed development.
- **Built Heritage** – There is potential for a negative impact on the setting of the Castle Gate, on St. Mary's Church and on the Howth Castle ACA due to the urbanising impact of the proposed development. The site is zoned for development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists and is under construction in the immediate and wider area. Taking account of the incorporated design mitigation, no significant adverse operational phase effects are predicted as a result of the proposed development.

10.83. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described, and assessed. The environmental impacts identified are not significant and would not require or justify refusing permission for the proposed development or require substantial amendments.

11.0 Recommendation

11.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the following reason and considerations and subject to the conditions outlined below.

12.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2022

Planning Authority: Dublin City Council

Planning Register Reference Number: LRD0035/S3

Appeals by GLL PRS Holdco Ltd of Block C, Maynooth Business Campus, Straffan Road, Maynooth, Kildare c/o McCutcheon Halley Plannign Consultants of Kreston House, Arran Court, Arran Quay, Dublin 7 against the decision made on the 29th day of July 2024, by Fingal County Council to refuse permission for the proposed development.

Proposed Development: The development will consist of:

- i. two offset buildings ranging in height from 3-5 storeys providing 135 residential units (8,900.1 sqm) comprising:
 - 63 one-bedroom units; (3,141.1sqm)
 - 72 two-bedroom units; (5,759 sqm)

- ii. a public open space of 1,676 sq. m. and communal open space with an area of 890 sq. m.;
- iii. the provision of 63 surface car parking spaces, including 4 accessible parking spaces and 13 EV spaces;
- iv. the provision of 410 bicycle parking spaces, including 342 secure bicycle spaces and 68 visitor spaces;
- v. partial demolition of 3 sections of the existing demesne northern boundary wall, which front Howth Road to facilitate vehicular access in the northwestern corner and two separate pedestrian/cyclist access points along the centre and eastern side of the northern boundary wall;
- vi. restoration and refurbishment of the remaining extant northern and eastern demesne boundary wall;
- vii. undergrounding and relocation of existing ESB overhead lines and diversion of existing distribution gas pipe around the site;
- viii. works to facilitate bicycle infrastructure upgrades and services connections along Howth Road and
- ix. ESB substation, kiosk, rooftop solar photovoltaics, waste storage and plant rooms, drainage, boundary treatment, public lighting, together with all ancillary site and development works.

An EIAR and NIS were submitted with the application.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered:

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to

have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the following:

- a) the location of the site in the established urban area of Howth in an area zoned for residential (under Objective RS 'RS' Residential – 'Provide for residential development and protect and improve residential amenity', with undeveloped area to the south zoned 'HA' High Amenity – 'Protect and enhance high amenity areas');
- b) the policies and objectives of the Fingal Development Plan 2023 – 2029
- c) the Rebuilding Ireland Action Plan for Housing and Homelessness (2016)
- d) Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- e) Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2018)
- f) Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- g) Design Manual for Urban Roads and Streets (DMURS) (2013)
- h) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- i) Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- j) Climate Action Plan 2024
- k) the nature, scale and design of the proposed development and the availability in the area of public transport and water services infrastructure;
- l) the availability in the area of a wide range of social, community, transport and water services infrastructure,
- m) the pattern of existing and permitted development in the area,
- n) The planning history of the area, including its partial location in the Buffer Zone to the Howth Special Amenity Area and in the setting of the Howth Demesne

Architectural Conservation Area and Protected Structures in the ACA
(particularly Howth Castle)

- o) the submissions and observations received
- p) the report of the inspector

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development would be appropriate to the historic sensitivity of the site and would otherwise be acceptable in terms of pedestrian and traffic safety and convenience. The Board also considered that the height proposed at this specific location was acceptable due to:

- a) Proximity to the DART and given the density and height of the adjacent permitted and built development at the edge of Howth village, which is reflective of a City-Suburban / Urban Extension as designated in the Sustainable and Compact Settlements Guidelines for Planning Authorities (2024). Therefore, residential densities up to 150 dwellings per hectare at accessible urban extension location (as defined in Table 3.8 of these Guidelines) is considered to be acceptable.
- b) The evolving and changing character of this sensitive baseline landscape and visual environment, taken together with the embedded design mitigation measures the proposed building heights are fully consistent with the provision of the Urban Development and Building Heights Guidelines 2018.
- c) The generally high quality design, layout and disposition of the scheme, which provides high quality accommodation and amenity for future occupants and does not give rise to any significant amenity issues in terms of overlooking or overshadowing of adjoining developments, together with the fact that the development complies with the standards set out in the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2022)
- d) Precedent decision in the immediate area that incorporated height similar and higher to that sought under the current application

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment (AA):

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale, and location of the proposed development adjoining the serviced urban area, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, the Appropriate Assessment documentation submitted with the application, the incorporation within the proposal of best-practice standard measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site, the submissions and observations on file, the reports of the planning authority, and the Planning Inspector's report.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives and that a Stage 2 Appropriate Assessment is not, therefore, required.

The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on European Site; Baldoyle Bay SAC (000199) and North-West Irish Sea SPA (004236) or any other European site, in view of the sites' Conservation Objectives.

This screening determination is based on the following

- (i) the conservation objectives for the European Sites.
- (ii) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (iii) the distance from the proposed works

Environmental Impact Assessment

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

- a) The nature, scale, location, and extent of the proposed development;
 - b) The Environmental Impact Assessment Report and associated documentation submitted with the application and the appeal response;
 - c) The content of the appeals, the reports of the planning authority, and the submissions received from third parties and prescribed bodies; and
 - d) The report of the Planning Inspector.
-
- population and human health;
 - biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
 - land, soil, water, air and climate;
 - material assets, cultural heritage and the landscape; and

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation, including environmental conditions, and these are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects:

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- **Population and Human Health** – A positive impact with regard to population and material assets due to the increase in housing stock and facilities that would be made available in the area. Construction related disturbance including noise, dust, dirt, and traffic, which would be mitigated by construction management measures including the agreement of a Construction Environmental Management Plan, a Construction Traffic Management Plan, and a Resource and Waste Management Plan.
- **Traffic and Transport** - Potential for moderate short-term negative impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area in the operational phase and any potential impact will be mitigated by way of design and implementation of a Mobility Management Strategy for the development.
- **Biodiversity** - Disruption to birds and bats due to the construction works, lighting, dust, and the loss of vegetation. This will be mitigated by the employment of good practice construction measures to reduce disruption, including pre-construction surveys and monitoring by the project ecologist, and by the design of the proposed scheme (including lighting and landscaping) which will retain and protect important habitats, and features. Impacts on water quality and the aquatic environment as a result of silt laden and contaminated runoff, which will be mitigated by standard

good practice construction stage measures and the operational surface water drainage system.

- **Water** - Construction stage impacts on groundwater and surface water quality, which will be mitigated by standard good practice construction stage measures including a Construction Environmental Management Plan. Operational stage surface water discharges to groundwater including associated downstream impacts on biodiversity, which will be mitigated by the implementation of suitably designed Sustainable Urban Drainage System (SuDS) measures.
- **Air & Climate** – Potential negative effects arising from noise and air during the construction and operational phases, which will be short term in nature and will be mitigated by appropriate construction management and design measures outlined in the relevant section of the EIAR. Operational effects will be longer term but will be mitigated through design and operational practices and are not considered to be significant.
- **Material Assets (Archaeology)** - Disturbance of recorded and unrecorded archaeological features as a result of construction stage excavation and groundworks, which will be mitigated by a range of measures including the retention/protection of important features, further archaeological testing and monitoring, and the recording of archaeological remains.
- **Landscape** – There will be changed views from various locations given the change from a green field site to a high rise residential development. The site is zoned for development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists and is under construction in the immediate and wider area. The potential impact will be positive. Changes to the localised landscape character associated with the development of this site, which will be mitigated by the design and layout of the proposed development.
- **Built Heritage** – There is potential for a negative impact on the setting of the Castle Gate, on St. Mary's Church and on the Howth Castle ACA due to the urbanising impact of the proposed development. The site is zoned for development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists and is under construction in the immediate and wider area. Taking account of the

incorporated design mitigation, no significant adverse operational phase effects are predicted as a result of the proposed development.

The Board is, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative effects on the environment.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Fingal Development Plan 2023 – 2029 , the proposed development would constitute an acceptable density of development in this serviced urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

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

Reason: In the interest of clarity.

- 2) The mitigation measures contained in the submitted Environmental Impact Assessment Report (EIAR), shall be implemented.

Reason: To protect the environment.

- 3) The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

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

Reason: In the interest of public health.

- 5) Prior to the commencement of development the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

- 6) Prior to the commencement of development on site the applicant is required to engage with DAA/Dublin Airport and with the Irish Aviation Authority to agree any proposals for crane operations (whether mobile or tower crane).

Reason: To maintain safe air navigation.

- 7) Public 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 through open spaces and shall take account of the agreed landscaping plan. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

- 8) 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.

- 9) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

- 10) Prior to the commencement of development on site the applicant is required to engage with DAA / Dublin Airport to agree any proposals for crane operations (whether mobile or tower crane).

Reason: To maintain safe air navigation.

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

Reason: In the interest of environmental protection [residential amenities, public health and safety and environmental protection]

- 12) Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours 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.

13) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan. This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

14) Prior to 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 reducing waste and encouraging recycling.

15) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

16) The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Planning Authority's Taking in Charge

Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

17)(a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs, and the underground car park shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

(b) Footpaths shall be dishd at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

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

18)(a) The detail and security arrangement, and management arrangements for the proposed bicycle parking provision, including that of the bicycle lockers, shall be agreed in writing with the planning authority prior to commencement of development.

(b) The development management shall ensure that the cycle parking areas are subject of a funded maintenance regime that ensures that facilities are kept clean, free of graffiti, well-lit and the parking equipment will be properly maintained.

(c) No objects, structures or landscaping shall be placed or installed within the visibility triangle at the vehicular entrance onto the public road, exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.

(d) Road Safety Audits shall be carried out as part of the proposed development at the relevant stages as outlined in current edition of Transportation Infrastructure Ireland guidelines GE-STY-1027.

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

- 19)(a) The landscaping scheme as submitted to the planning authority shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
- (b) A suitably qualified Arboricultural Consultant shall be appointed and shall be responsible for tree protection during the course of construction works and to advise the Site Manager. Prior to works commencing the Arborist shall liaise with the Planning Authority to arrange a site visit to inspect tree protection measures and at key project stages thereafter.
- (c) Play spaces shall be installed and open for use prior to the occupation of the adjoining apartment block under construction.

Reason: In the interest of residential and visual amenity.

- 20)The developer shall engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record [archaeological excavation] and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the

archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. 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.

- 21) 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, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

- 22) Proposals for an estate/street name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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 placenames for new residential areas.

23) Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.

24) Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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 that the public road is satisfactorily reinstated, if necessary.

25)(a) The Howth SAAO levy as per Objective 1.6 and Policy 1.6.1 of the Howth SAA Order shall apply at the Euro equivalent of IR£1,000 (€1,269.73) per unit at current Central Bank exchange rate of IR£1 = €1.26973. Therefore, the proposed development of 135no. units generates a Howth SAAO levy of €171,413.55. This levy shall be paid by the developer to Fingal County Council prior to the commencement of construction works.

(b) There is a shortfall in the quantum of public open space generated through the development works of 3,413m² (2,560m² Class 1 and 853m² Class 2). Prior to the commencement of construction works, the developer is required to make up this shortfall by way of a financial contribution in lieu of the Objectives of the Fingal Development Plan (DMSO53). Prior to commencement of work on site

(c) As the street tree is required to be removed for sightline purposes, prior to commencement the Council will calculate and agree a compensation amount with the developer for its removal and to plant a replacement street tree within the local area, as per Fingal's tree policy the 'Forest of Fingal'.

(d) A tree bond of €150,000 shall be lodged with the Council prior to the commencement of development to ensure that all retained trees included in the submitted Arboricultural Report are protected and maintained in good condition throughout the course of development. This bond will be held by Fingal County Council for a period of three years post-construction, which may be extended in the event of possible construction-related defects.

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

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.

27) The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of works to remove infiltration in the network on approximately 55m of existing wastewater network at Dungriffin Road, Howth, Co Dublin to facilitate the wastewater connection for the proposed development and which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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

28) The developer shall pay to the planning authority a financial contribution per unit as a contribution in lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The amount of the contribution shall be agreed between the planning authority and the

developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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

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

Mary Crowley

Senior Planning Inspector

27th November 2024