



An
Bord
Pleanála

Inspector's Report

ABP-321437-24

Development	Construction of 197 residential units and associated site works (Phase 4 of wider development). The application includes an Environmental Impact Assessment Report and Natura Impact Statement. (www.folkstownlrd.ie)
Location	Clonard or Folkstown Great and Clogheder, Balbriggan, Co. Dublin
Planning Authority	Fingal County Council (FCC)
Planning Authority Reg. Ref.	LRD0048/S3E
Applicant	Marshall Yards Development Co. Ltd.
Type of Application	Large-Scale Residential Development (LRD)
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant	Marshall Yards Development Co. Ltd.
Observer(s)	None

Date of Site Inspection

17th February 2025

Inspector

Anthony Kelly

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1.0 Site Location and Description

- 1.1. The subject site is located at the western urban edge of Balbriggan in north Co. Dublin. The site is on the opposite side of Boulevard Road from Coláiste Ghlór na Mara and the Taylor Hill residential development. It has a very irregular shape and it effectively wraps around the west and south of the under construction/partially occupied Folkstown Park housing development from the north west to the south east. The proposed development would form Phase 4¹ of Folkstown Park. It also bounds the L1130 local road to the west and the R122 to the south.
- 1.2. The site has three main areas/parcels:
- (i) The northern area (Parcel 1) is adjacent to the north/north west of the under construction/recently constructed Folkstown Park. It is immediately adjacent to the south of the road junction between Boulevard Road and the proposed 'C-Ring' road which was permitted as part of granted permission ABP-319343-24². It is the smallest of the three parcels. It is fenced off and is currently used as a materials storage area.
 - (ii) Parcel 2 is in the western area and is adjacent to houses in Folkstown Park. The L1130 runs along the south western boundary. This area of the site is also adjacent to the anticipated C-Ring road. There is a detached two-storey house adjacent to the south east. The north area of the parcel has been cleared and the main area of the parcel is used for the storage of earth.
 - (iii) Parcel 3 in the southern area has road frontage along the L1130 to the west, the R122 along the south, and the Boulevard Road to the east. A stream, Clonard Brook³, runs in an easterly direction through the centre of the site. Parcel 3 is the largest of the three parcels. It shares its north western boundary with the two-storey house referenced above and another third-party property. This parcel is also adjacent to Folkstown Park. In general, the western area of the parcel is used for construction car parking and some of the eastern area is still under vegetation.

¹ The combined number of residential units in the overall development would be 434.

² The Flemington Lane LRD

³ This is also known as Bremore Stream.

However, the main bulk of the parcel is being used as a construction compound and material storage area.

- 1.3. The site has an area of 7.15 hectares gross and 5.27 hectares net⁴.

2.0 Proposed Development

- 2.1. Permission is sought for an LRD of 197 residential units (comprising 147 houses/townhouses, 18 later living houses, 16 duplex units, and 16 apartments), two commercial units, and open space/ancillary development. The development will facilitate Phase 4 of the lands at Ladywell⁵ in Balbriggan as follows:

- (a) 129 terraced and semi-detached houses comprising 55 two-bedroom houses (two-storey), 67 three-bedroom houses (two-storey) and 7 four-bedroom houses (three-storey) [house types with variants].
- (b) 18 terraced and semi-detached three-bedroom townhouses; 18 Later Living Units (8 one-bedroom and 10 two-bedroom – all bungalows) [house types with variants].
- (c) 12 one-bedroom maisonettes in 6 two-storey semi-detached buildings, and 4 one-bedroom apartments in a three-storey building along with one retail/café unit (approx. 165sqm) and one retail/medical unit (approx. 185sqm) [including 'back of house area' and both units to be able to be subdivided and amalgamated].
- (d) 16 duplex apartments (comprising 8 one-bedroom and 8 three-bedroom units) in 4 three-storey buildings.
- (e) Approx. 0.85 hectares public open space (with an additional approx. 0.76 hectares of riparian corridor open space), hard and soft landscaping (including public lighting and boundary treatment) and communal/semi-private open space (approx. 660sqm) for the proposed townhouse, duplex and apartment units.

⁴ The net area excludes the area connecting Parcels 1 and 2, parts of the L1130, the R122, and Boulevard road, and an area of riparian corridor either side of Clonard Brook/Bremore Stream. I consider this calculation of the net site area to be reasonable.

⁵ 'Ladywell' is a name associated with the overall Folkstown Park development.

- (f) Vehicular access via the Boulevard Road along with the provision of car and bicycle parking and all internal roads and footpaths and bicycle and bin stores.
- (g) Surface water attenuation measures (including widening of Clonard Brook), water, foul drainage infrastructure and all ancillary site development, construction, and landscaping works [and temporary construction access from L1130].
- (h) Amend the layout to elements of the shared layout across the permitted phases and associated amendments to attenuation (Clonard stream) and services.
- (i) Signalised upgrade of the junction of Boulevard Road and the Clonard Road (R122).

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

Table 2.1 – Key Figures

Site Area (Gross/Net)	7.15 hectares / 5.26 hectares
Number of Units	197 (129 houses, 18 townhouses, 18 later living houses, 16 duplex units, 12 maisonettes, and 4 apartments).
Height	Single-storey to three-storeys
Net Density (Units per Hectare (uph))	37.4uph
Dual Aspect (apartments)	100% (the four apartments are triple aspect)
Open Space / Amenities	<p><u>Open Space</u> – 0.85 hectares (approx. 16.1% of net site area) of public open space plus 0.76 hectares of riparian corridor (approx. 14.4% net)</p> <p>660sqm (0.066 hectares) of communal open space for the proposed townhouses and duplex units.</p> <p><u>Amenities</u> – Two commercial units and car club</p>
Pedestrian / Cyclist Infrastructure	Pedestrian connectivity to, variously, the Boulevard Road, proposed C-Ring, L1130, and R122, as well as connectivity to Folkstown Park.

	There is a shared cyclepath/footpath through the open space in Parcel 3 along the northern side of Clonard Brook connecting the L1130 and Boulevard Road.
Car and Bicycle Parking	<p><u>Car</u> – 280 spaces (178 in-curtilage, 67 on-street, 27 visitor, 4 car club, 4 commercial, and 9 later living units); an average of 1.4 spaces per unit.</p> <p><u>Bicycle</u> – Apartments, townhouses, duplex units, and terraced units are provided with bike stores which can accommodate two bicycles per unit. Remaining units can store bicycles in their private open space areas</p>
Part V	<p>There is a discrepancy as to the part V provision. For example, section 10 of the Planning Report and Statement of Consistency refers to 34 units (including 16 1-bed units), the part V drawings illustrate 35 units, and the applicant's part V letter cites 36 units (including only 4 1-bed units).</p> <p>This can be addressed as compliance with FCC should permission be granted.</p>

Table 2.2 – Unit Breakdown

	Bedroom Number				
Type	1-Bed	2-Bed	3-Bed	4-Bed	Total
Houses	0	55	67	7	129 (65.5%)
Townhouses	0	0	18	0	18 (9.15%)
Duplex Units	8	0	8	0	16 (8.1%)
Apartments	4	0	0	0	4 (2.0%)
Later-Living	8	10	0	0	18 (9.15%)

Maisonettes	12	0	0	0	12 (6.1%)
Total ⁶	28 (14.2%)	69 (35.0%)	93 (47.2%)	7 (3.6%)	197 (100%)

- 2.3. Parcel 1 is located adjacent to the relatively prominent junction of Boulevard Road and the C-Ring road. The two proposed commercial units are positioned at the junction. 25 houses, townhouses, apartments, and maisonettes are proposed in Parcel 1 with some public and communal open space areas. There is a vehicular access from Boulevard Road and pedestrian access across the C-Ring as well as vehicular and pedestrian connectivity with Folkstown Park to the south.
- 2.4. Parcel 2 is located adjacent to the L1130 and it is to the west of the recently developed/under construction Folkstown Park. The junction of Clonard Road and the C-Ring is immediately west of Parcel 2. The envisaged future design of this junction is unclear. 40 houses and townhouses are proposed in this parcel with two areas of public open space. The housing footprints and general site layout reflects that of the adjoining development. Vehicular access is only via Folkstown Park, though there is pedestrian and cyclist access onto both the C-Ring and Clonard Road.
- 2.5. Parcel 3 has frontage to the L1130 to the west, the R122 to the south, and Boulevard Road to the east. One of its main features is the riparian corridor through the centre, dividing the parcel into areas north and south of the watercourse. There are two vehicular crossing points of the watercourse with an additional three pedestrian/cyclist crossings. Proposed houses address the public roads to west, south, and east. There is no direct vehicular access to the public roads, only through Folkstown Park, though there are a number of pedestrian/cycle access points. 132 houses, townhouses, duplex units, later living units and maisonettes are located in this parcel. The later living units are grouped together north of the watercourse, relatively close to the vehicular entrance to Boulevard Road via Folkstown Park, and with open space areas

⁶ There are discrepancies between the numbers of 1-bed and 2-bed units in the application. For example, the public notices and section 1.0 of the Planning Report and Statement of Consistency state that there are 32 1-bed and 65 2-bed units proposed. However, this results from a typographical error where the four apartment units are described as 1-bed units when they are 2-bed units. This mistake is not made elsewhere e.g. table 3.2 of the Planning Report and Statement of Consistency, Item 14 (a) of the application form and on the site layout plan. While it is inconsistent I consider it to be a typographical error that does not have a material impact on the application.

adjacent. Again, the housing footprints and site layout are generally reflective of the wider development at this location and there are a number of open space areas with footpaths throughout.

- 2.6. Surface water would discharge into the Clonard Brook. The stream has been widened to form a riparian corridor as part of the previously permitted developments. For continuity it is intended to widen the brook at the western end of the site. It is proposed to use a sustainable urban drainage system (SuDS) approach to stormwater management throughout the site where possible. SuDS features include permeable paving, swales, bioretention systems, and detention basins (in previously permitted areas). All attenuation is above ground. The proposed foul network will connect to the existing foul sewer arrangement permitted under the previous phases.
- 2.7. The first phase of the development involves Parcel 1 and the signalised upgrade at the junction of Boulevard Road and the R122. The second phase is Parcel 2, and the third phase is Parcel 3. These are illustrated on drawing no. A-507-DCA-XX-XX-DR-A-028. The construction period is anticipated to last up to four years.
- 2.8. The Environmental Impact Assessment Portal ID number is 2024132.
- 2.9. In addition to standard plans and particulars the planning application was accompanied by a number of supporting documents. These include, but are not limited to:
- ‘Planning Report and Statement of Consistency’ dated July 2024,
 - ‘FCC Opinion Response Document’ dated July 2024,
 - ‘Environmental Impact Assessment Report’ (EIAR) dated July 2024 comprising Volume I (Non-Technical Summary), Volume II (Main Report (in two parts)), and Volume III (Technical Appendices (in three parts)),
 - ‘Screening Report for Appropriate Assessment’ (AA Screening Report) and a ‘Natura Impact Statement’ (NIS) both dated July 2024,
 - ‘Design Statement Phase 4’ dated July 2024,
 - ‘Social Infrastructure Audit’ dated July 2024,
 - ‘Landscape and Green Infrastructure Report’ dated August 2024,

- ‘Engineering Services Report’ dated 24th July 2024,
- ‘Construction Environmental Management Plan’ (CEMP) dated 24th July 2024,
- ‘Resource and Waste Management Plan’ (RWMP) dated 10th July 2024,
- ‘Operational Waste Management Plan’ (OWMP) dated 10th July 2024,
- ‘Traffic and Transport Assessment and Mobility Management Plan’ (TTA) dated August 2024,
- ‘Site Specific Flood Risk Assessment’ (SSFRA) dated 24th July 2024,
- ‘Daylight and Sunlight Analysis’ dated 24th July 2024,
- ‘Verified Photomontages’ dated July 2024, and,
- ‘DMURS⁷ Statement of Consistency’ dated 24th July 2024.

2.10. Further information was sought by the planning authority on 27th September 2024 in relation to, inter alia, the findings and conclusions of the EIAR, the proposed layout and design of the southern area of the development, the design and internal layout of a number of the proposed residential units, the proposed development in the context of the C-Ring as set out in the FDP 2023-2029, and drainage and the ceding of land along the L1130. A response was received on 9th October 2024. The further information response included:

- ‘Further Information Response’ document dated October 2024,
- ‘FI Response’ document dated October 2024 providing an overview of the response to the architectural items raised in the further information request,
- ‘Further Information’ document dated 7th October 2024 relating to the C-Ring, drainage, and the ceding of land along the L1130,
- ‘Memo providing a response to the transport-related items (1b and 3b) of a Further Information Request ...’ dated 8th October 2024,
- ‘Verified Photomontages’ dated October 2024, and,
- Site layout plans, floor plan, elevation, and section drawings.

⁷ Design Manual for Urban Roads and Streets

3.0 Planning Authority Pre-Application Opinion

- 3.1. An LRD pre-application meeting (ref. LRD0048/S2) took place on 12th April 2024 following an earlier section 247 meeting (ref. LRD0048/S1) on 24th January 2024.
- 3.2. In the LRD opinion issued on 7th May 2024, FCC was of the opinion that the documents submitted required further consideration and amendment to constitute a reasonable basis for an LRD application, specifically citing urban design and access arrangements. The planning authority also cited 30 specific items of information to be addressed in any application.

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. The planning application was received by FCC on 6th August 2024. Further information was sought on 27th September 2024 and a response was received by the planning authority on 9th October 2024.
- 4.1.2. FCC refused the application for the following two reasons:
 - 1. The proposed three-storey house and duplex unit blocks fronting onto Clonard Road/R122 would, by reason of their layout, bulk, scale and design, result in a visually abrupt, obtrusive and overly dominant form of development as viewed from Clonard Road/R122; while several of the proposed residential unit types provide for substandard levels of design, internal layout and amenity. The proposed development would therefore provide a substandard level of residential amenity for future occupants, be seriously injurious to the visual amenities of the area and contrary to the proper planning and sustainable development of the area.
 - 2. The proposed development, by virtue of its layout and design, would preclude the complete delivery of the C-Ring Road proposal as indicated on Map Sheet No. 4 'Balbriggan' of the Fingal Development Plan 2023-2029; and preclude the potential

upgrade of the L1130/L5450⁸ and the R122 crossroads should the C-Ring Road proposal not be delivered in full. The proposed development is not in accordance with an objective of the Fingal Development Plan 2023-2029 and, therefore, would be contrary to the proper planning and sustainable development of the area.

4.2. Planning Authority Reports

Planning Reports

- 4.2.1. Two Planning Reports were prepared, dated 26th September 2024 and 14th November 2024.
- 4.2.2. Both reports contain the same information e.g. site description, planning history, development description, summary of third party submissions and both internal and prescribed body reports, relevant policy context, planning assessment, EIA, and AA.
- 4.2.3. On foot of the first Planning Report, further information was sought by the planning authority on the content of the EIAR, concern about the design and layout of the south/south western area of the proposed development including the design of proposed structures and the removal of a substantial number of trees and hedgerows, the designs of the proposed residential units, the C-Ring route, and the footpath/cyclepath along the L1130. The responses to these issues, which were not deemed to be significant, were summarised and assessed in the second Planning Report.
- 4.2.4. The second Planning Report concluded that the applicant failed to address concerns regarding the bulk, scale, and design of the structures fronting onto the R122 which would appear visually abrupt, obtrusive, and overly dominant when viewed from the road, and failed to address concerns regarding the design and internal layout of approximately 30% of proposed residential units. In addition, the C-Ring shown did not follow the route set out in the Fingal Development Plan (FDP) 2023-2029 and the planning authority was concerned that the proposed site layout would affect a potential future upgrade of the crossroad junction. A refusal was recommended for the two reasons as set out in subsection 4.1.

⁸ The L5450 appears to be the local road on the opposite side of the crossroads junction with the L1130 and the R122 at the southern corner of the site.

4.2.5. Other Technical Reports

Transportation Planning – No recommendation made. Following the further information response the proposed development is not supported in its current format because the proposed route of the C-Ring is not in accordance with the road proposal illustrated in the FDP 2023-2029 and it precludes a potential upgrade of the L1130/R122 crossroads.

Water Services – The proposal is acceptable subject to conditions.

Parks and Green Infrastructure Division – There is a shortfall in the public open space provision. FI/conditions recommended, depending on the planning authority decision.

Ecologist – Following the further information response there is no objection, subject to mitigation measures in the EIAR and NIS being implemented, and a landscape plan being agreed with the planning authority to include a long-term management plan.

Architects Department – No recommendation made. Following the further information response a number of comments are made regarding the architectural quality of some houses and duplexes.

Conservation Officer – No recommendation made. Following the further information response the retention and extension of a section of hedgerow at the crossroads junction is welcomed. Comments from Parks & Landscape Officer and the Ecologist should be sought.

Heritage Officer – Conditions are recommended relating to archaeological excavation and topsoil stripping.

Environment, Climate Action, Active Travel and Sports Department – No recommendation made. A RWMP should be prepared prior to commencement of development and comments are made in relation to bin storage areas⁹.

Public Lighting – No recommendation made. A number of items are cited that would need to be met and approved before the design is deemed compliant¹⁰.

⁹ Item 2 related to operational waste management which I consider can be addressed by way of an appropriate condition should permission be granted.

¹⁰ A relevant compliance condition can be attached to any permission that may issue.

Air & Noise Officer – No objection subject to conditions

Housing Department – No recommendation made. If permission is granted the developer is to liaise with the Housing Department to satisfy the part V obligation.

4.3. **Prescribed Bodies**

Department of Housing, Local Government and Heritage (DHLGH) – In relation to archaeology it is recommended that a condition pertaining to archaeological excavation of subsurface archaeological features and monitoring of ground disturbance be included in any grant of permission.

In relation to nature conservation, more hedgerow/treeline in the south/south west could have been retained in the landscaping proposals. An amended landscaping scheme is recommended as further information. In relation to AA, the Department accepts the conclusion of the NIS that, after mitigation, no adverse effects on North-west Irish Sea special protection area (SPA) should occur.

It is also recommended that any planning permission eventually granted should include conditions relating to timing of vegetation clearance and submission of a CEMP.

Uisce Éireann – No objection in principle. Water and wastewater connections are feasible.

Transport Infrastructure Ireland (TII) – No recommendation made. TII requests that regard is had to the provisions of official policy for development proposals.

4.4. **Third Party Observations**

4.4.1. Three submissions were received by the planning authority on foot of the application. The main issues raised can be summarised as follows:

- Inadequate car parking in the vicinity of the commercial units
- Open space usability / class 1 open space provision in the wider area
- Additional traffic on the Boulevard and upgrade of R122 junction not commenced

- Current construction activity (dust and dirt, continued activity in the absence of mandatory approvals)
- Lack of infrastructure in the area e.g. C-Ring / premature pending delivery of the C-Ring
- Contrary to National Planning Framework (NPF), Regional Spatial & Economic Strategy (RSES), and FDP 2023-2029 (core strategy)
- Developer-led rather than plan-led development in the area / absence of a Local Area Plan as recommended by the Office of the Planning Regulator
- Number of units proposed and the building heights
- Additional pressure on struggling wastewater infrastructure

5.0 Planning History

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

On Site

5.2. P.A. Reg. Ref. F21A/0055 / ABP Reg. Ref. ABP-312048-21 – In 2023, following a third party appeal of a grant of permission by FCC, the Board granted a ten-year permission for development consisting of Phase 3A as well as roads, services, and public space relating to the overall Phase 3 Ladywell masterplan lands comprising 99 residential units (73 houses, 16 duplexes, 6 triplex units, and 4 maisonettes), open spaces, roads and services infrastructure to facilitate future development of Phase 3 lands, signalled upgrade of the Boulevard Road/R122 junction etc. The site boundary includes proposed housing in Parcel 3 subject of this current planning appeal¹¹ and roads and services infrastructure affecting Parcel 1 and part of Parcel 2.

¹¹ This is illustrated on the 'Application Site & Integration with Phase 3 Lands' drawing submitted with the application.

5.3. P.A. Reg. Ref. F22A/0526 – In 2023, the planning authority granted a ten-year permission for phase 3B (comprising 95 no. residential units (79 no. houses and 16 no. 1-bed maisonettes)), and roads, services, and open spaces relating to the overall phase 3 Ladywell masterplan, signalised upgrade of Boulevard Road/R122 junction etc. The site boundary includes parts of all three parcels subject of this current planning appeal.

5.4. P.A. Reg. Ref. F22A/0670 – In 2023, the planning authority granted a ten-year permission for phase 3C (comprising 75 no. residential units (68 no. houses and 7 no. triplex and maisonette apartments), and roads, services, and open spaces relating to the overall phase 3 Ladywell Masterplan, signalised upgrade of Boulevard Road/R122 junction etc. The site boundary includes proposed housing in the northern part of Parcel 2 subject of this current planning appeal¹² and roads and services infrastructure affecting Parcel 1 and part of Parcel 3.

5.5. *Adjacent to North*

P.A. Reg. Ref. LRD006/S3 / ABP Reg. Ref. ABP-319343-24 – In 2024, following a first-party appeal of a refusal of permission by FCC, the Board granted a five-year permission for development comprising, inter alia, 564 residential units (378 houses, 84 duplex units, and 102 apartments), nine commercial units, six communal units, access points from both the Boulevard Road and Flemington Lane to the north, playing fields etc. The spine road running through the site is known as the C-Ring and it bounds Parcel 1 of the subject appeal.

6.0 Policy Context

6.1. Project Ireland 2040 National Planning Framework (NPF)

6.1.1. The NPF is a high-level strategic plan to shape the future growth and development of the country to 2040. It is focused on delivering 10 National Strategic Outcomes.

6.1.2. Relevant National Policy Objectives (NPOs) include:

¹² As above.

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

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

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

6.2. Climate Action Plan (CAP) 2024

- 6.2.1. The CAP 2024 is the third annual update to Ireland's Climate Action Plan. Its purpose is to lay out a roadmap of actions which will ultimately lead Ireland to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022.

6.3. Ireland's 4th National Biodiversity Action Plan 2023-2030

- 6.3.1. This aims to deliver the transformative changes required to the ways in which we value and protect nature. It has been developed with the support, advice and input of the interdepartmental Biodiversity Working Group and the independent Biodiversity Forum. It 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'.

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

- 6.4.1. The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. There is a renewed focus in the Guidelines on, inter alia, the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.
- 6.4.2. Balbriggan is a Large Town for the purpose of the Guidelines. The site is in an urban extension location i.e. greenfield lands at the edge of the existing built-up footprint that are zoned for residential or mixed-use (including residential) development. Residential densities in the range 30dph to 50dph (net) shall generally be applied. This is further addressed in subsection 8.2 of this report.

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

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

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

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

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

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

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

- 6.8.1. The RSES provides for the development of nine counties / twelve local authority areas, including Fingal, and supports the implementation of the NDP. It is a strategic plan which identifies regional assets, opportunities, and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. It provides a framework for investment to better manage spatial planning and economic development throughout the region.

6.9. Fingal Development Plan (FDP) 2023-2029

- 6.9.1. Balbriggan is identified as a 'Self Sustaining Town' and it is described on page 86.
- 6.9.2. The site is zoned 'RA - Residential Area' on Sheet No. 4, with a zoning objective to 'Provide for new residential communities subject to the provision of the necessary social and physical infrastructure'. A 'Road Proposal' objective route is shown along the north-west boundary of the subject site. Part of this route was permitted under LRD006/S3 / ABP-319343-24 adjacent to the north and north west of the current site.
- 6.9.3. The 'vision' for 'RA – Residential Area' zoning is 'Ensure the provision of high quality new residential environments with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities'. Use classes permitted in principle include 'residential', various 'retail' uses, 'restaurant/café', and 'health practitioner' (having regard to the two proposed retail units).

- 6.9.4. Objective CMO41 seeks to implement the transportation schemes indicated in table 6.3. One of these schemes is 'Balbriggan Ring Road R122 to R132'. The Council's second reason for refusal states, inter alia, that the proposed development would preclude the complete delivery of the C-Ring Road proposal as indicated on Sheet No. 4 of the Plan.
- 6.9.5. Chapter 14 (Development Management Standards) includes section 14.6.3 (Residential Density). This states that, in general, the density and number of dwellings to be provided within residential schemes should be determined with reference to the Sustainable Residential Development Guidelines (2009). These have now been superseded by the Compact Settlement Guidelines (2024). The Plan does not outline any specific density parameters. This is further addressed in subsection 8.2.

6.10. Natural Heritage Designations

- 6.10.1. The nearest designated area of natural heritage is North-west Irish Sea SPA (site code 004236) approx. 1.7km east of the proposed site.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. The first party grounds of appeal comprise a number of documents including:
- 'First Party Appeal' dated December 2024,
 - 'Note providing a transport response to Reason 2 of the Fingal County Council decision ...' dated 9th December 2024,
 - A response from Model Works dated 5th December 2024 in response to the first reason for refusal and 'Verified Photomontages' dated December 2024,
 - 'First Party Appeal Report' dated December 2024, and,
 - Various layout plans and house floor plans, elevation, and sections.

7.1.2. The grounds of appeal as set out in the 'First Party Appeal' can be summarised as follows. The other documentation is referenced where required in this report.

First reason for refusal

- The position that three-storey units are inappropriate because of scale, bulk, or layout is surprising as this regional road is the main road into the town from the M1, it is in excess of 20 metres in width, and it has cycle and footpaths on both sides. Refusing on this basis is contrary to good urban design and relevant policy. A regional road of this width should accommodate development that encloses and addresses the street. FCC's opinion sought an appropriate urban edge. It is consistent with both the Compact Settlement Guidelines (2024) and specific planning policy requirement (SPPR) 4 of the Building Height Guidelines (2018). The Conservation Officer welcomed the revisions proposed as part of the further information response.
- The permitted LRD adjacent to the north includes two and three storey houses and duplex blocks and three to five storey apartment blocks.
- Precedent for recent developments in similar transitional zones between rural and urban environments in Maynooth, Celbridge, and Greystones are referenced.
- While the proposed development design as presented in the further information response to FCC is considered to be appropriate, an amended scheme frontage has been provided if the Board considers it necessary, or alternatively the Board could issue a request under section 132 of the Planning & Development Act for revised drawings should it consider it appropriate to do so¹³. The amended scheme frontage replaces the three-storey duplex units with townhouses.
- It is not accepted that house types F3 and G and the duplex units are substandard in their design. As acknowledged in the planning authority's Planning Report these could have been subject of a condition. An updated house type F3 is proposed.

¹³ Section 132 (1) of the Planning & Development Act, 2000 (as amended) states that 'Where the Board is of opinion that any document, particulars or other information may be necessary for the purpose of enabling it to determine an appeal or referral, the Board may, in its absolute discretion, serve on any party, or on any person who has made submissions or observations to the Board in relation to the appeal or referral, as appropriate, *other than the applicant for permission in the case of an LRD appeal*, a notice under this section ...' (italics added). Therefore, in my opinion, this cannot be done under this section.

Two versions of revised house type H are proposed to replace house type G. It is proposed the duplex units are replaced by the type G/H houses. However, if the Board considers the duplex units are appropriate some adjustments to the fenestration of same has been made and a brick finish is proposed throughout.

Second reason for refusal

- The applicant is particularly disappointed with this reason for refusal as the rationale for the constituent elements does not stand up to scrutiny and there are no technical reasons recommended by the Transportation Department.
- The precise C-Ring alignment in Sheet 4 is not deliverable due to the permitted Phase 3C development and minimum curve radius requirements. Sheet 17 of the FDP 2013-2019 clearly describes the scheme as indicative. The proposed scheme does not prevent or preclude delivery of the C-Ring and would also not prevent or preclude signalisation/upgrade of the L1130/R122 junction.
- The proposed development will not preclude delivery of the C-Ring. The construction of the remainder of it is a matter for the local authority. Traffic from the proposed development can be accommodated within Boulevard Road.
- The decision has parallels with the planning authority decision to refuse permission for the LRD to the north which was granted by the Board on appeal. References are made to comments in the Inspector's Report relating to the C-Ring.
- Although it is stated that the development would not be in accordance with an objective of the Plan, a relevant objective is not cited. The reason for refusal is not self-explanatory, fair, or reasonable. It is likely that objective CMO41 is the reference, but the development would not inhibit the project. The proposed development would further contribute to the delivery of the C-Ring through the ceding of lands. An appropriate condition is suggested re: ceding.
- The planning authority fundamentally misunderstands what the FDP 2023-2029 requires in respect of the C-Ring alignment. It appears they are incorrectly of the view that the route on Sheet 4 is fixed. However, Sheet 17 clearly confirms that projects are indicative. The Plan does not prescribe the route of the C-Ring. Figure 8.13 presents the alignment as per Sheet 4 and the alignment as assumed in the

planning application. The kink where it joins the L1130 alignment as per Sheet 4 cannot be achieved in compliance with the minimum curve radius requirements of DMURS and the merge would require a substantially larger bend. The bend required to connect the northern C-Ring section with the L1130 would encroach on permitted development.

- The wording of the conditions of the permitted LRD to the north does not mean that any junction location can be amended as suggested by the Transportation Section, and in any event the alignment would affect an extant permission (F22A/0670) so there is no flexibility.
- Both the Council's preferred alignment and the alternative alignment traverse lands owned by the same party, necessitating a compulsory purchase order in either scenario. The proposed alignment minimises disruption, aligns with the existing roundabout, and reduces hedgerow removal.
- The L1130/R122 junction upgrade is not required for the proposed development, and it is not identified in the FDP 2023-2029. The two roads issues are mutually exclusive. The suggestion that the L1130 could be used as a proxy for the C-Ring would result in the removal of the hedgerow along the L1130 that the planning authority sought to retain.
- The L1130/R122 junction upgrade could be completed without a substantial revision of the junction layout, the Transportation Section requirements are excessive, it is not provided for in the FDP 2023-2029, and the provision of the C-Ring could lead to the closure of the junction. There appears to be no planning or transport-related grounds to sterilise a substantial proportion of development land to enable speculative works. There is no requirement for the provision of a competing junction 85 metres from an actual Development Plan objective¹⁴.

7.2. Planning Authority Response

- 7.2.1. The planning authority has no further comment to make, and the Board is requested to uphold its decision. In the event the appeal is successful provision should be made

¹⁴ The currently unused northern arm of the R122 roundabout to the west which the C-Ring is indicated as connecting to.

for applying a financial contribution and/or provision for any shortfall in open space and/or any special development contributions required, the inclusion of bond/cash security, and conditions where a tree bond or a contribution in respect of a shortfall of play provision facilities are required.

7.3. Observations

7.3.1. None.

8.0 Planning Assessment

In terms of assessing the planning application there are three separate elements: a planning assessment, an environmental impact assessment (EIA), and an appropriate assessment (AA). This planning assessment section addresses issues that are not more appropriately addressed in the EIA, and it should be read in conjunction with both the EIA and AA sections.

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

- Zoning
- Density
- The Planning Authority's First Reason for Refusal
- The Planning Authority's Second Reason for Refusal
- Site Layout, Design, and Residential Amenity for Future Occupants
- Impact on Existing/Permitted Residential Amenity
- Other Matters

8.1. Zoning

- 8.1.1. The subject site is zoned 'RA - Residential Area' in the FDP 2023-2029, with a zoning objective to 'Provide for new residential communities subject to the provision of the necessary social and physical infrastructure'. Residential development is permitted in principle on this zoning, as are various 'retail' uses, 'restaurant/café', and 'health practitioner'.
- 8.1.2. Therefore, I consider that the principle of the proposed development is acceptable on site.

8.2. Density

- 8.2.1. The density of a proposed development is an important consideration in the assessment of an application. There is an onus on relevant authorities to ensure that residential development is carried out at a suitable density to ensure the appropriate development of land. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) and the FDP 2023-2029 are relevant documents in this regard.
- 8.2.2. The relevant settlement type for Balbriggan in the 2024 Guidelines is Key Towns and Large Towns (5,000+ population). The subject site is clearly in an urban extension area. As set out in the Guidelines, 'urban extension refers to greenfield lands at the edge of the existing built-up footprint area that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that residential densities in the range 30 dph to 50 dph (net) shall generally be applied at ... urban extension locations of Key Towns and Large Towns ...'
- 8.2.3. As per paragraph 6.9.5 of this Inspector's report, the FDP 2023-2029 does not provide any specific density range but states that the Sustainable Residential Development Guidelines (2009) should be referred to. These 2009 Guidelines have been replaced by the 2024 Compact Settlement Guidelines.
- 8.2.4. The total/gross site area is cited as 7.15 hectares with a net site area of 5.27 hectares. As per footnote 4, the net site area excludes the area connecting Parcels 1 and 2, areas of the L1130, the R122, and Boulevard road, and an area of riparian corridor

either side of Clonard Brook/Bremore Stream. I consider the deduction of these areas from the gross site area to be acceptable as they are marginal areas, comprise areas of public road, or are undevelopable/to be protected under Objective IUO26 (Riparian Corridors) of the FDP 2023-2029. 197 units on a 5.27 hectares site gives a net density of approx. 37.4uph. This is comfortably within the envisaged density range in the Compact Settlement Guidelines (2024) for this site location, and it is similar to the approx. 35.1uph density permitted in the Flemington Lane LRD development to the north.

8.2.5. I consider the proposed density to be acceptable.

8.3. The Planning Authority's First Reason for Refusal

8.3.1. The planning authority's first reason for refusal is as follows.

The proposed three-storey house and duplex unit blocks fronting onto Clonard Road/R122 would, by reason of their layout, bulk, scale and design, result in a visually abrupt, obtrusive and overly dominant form of development as viewed from Clonard Road/R122; while several of the proposed residential unit types provide for substandard levels of design, internal layout and amenity. The proposed development would therefore provide a substandard level of residential amenity for future occupants, be seriously injurious to the visual amenities of the area and contrary to the proper planning and sustainable development of the area.

8.3.2. I consider it appropriate to assess the reason for refusal under different subheadings, as set out below. There are two primary issues: (i) the visual impact of the three-storey houses and duplex units when viewed from the R122, and (ii) the design, internal layout, and amenity of the relevant residential units. These two issues are separate issues combined into a single reason for refusal.

Background to the Reason for Refusal

8.3.3. The residential units along the R122 to the south of the site comprise two three-storey duplex blocks at the junction of the L1130 and the R122, a non-continuous line of two- and three-storey houses, and two more three-storey duplex blocks at the junction of the R122 and Boulevard Road. This contiguous elevation can be seen on site section

M-M (drawing no. A507-DCA-XX-XX-DR-A-204) and pages 4, 21, and 42-44 of the Design Statement.

- 8.3.4. The Architects Department raised a number of concerns in relation to the proposed residential units e.g. fenestration, internal layout, labelling of drawings, elevational treatment, and boundary treatments. The Planning Officer set out concerns in relation to the visual impact and integration of the proposed development in the surrounding area. Its prominent and transitional urban/rural location was cited. The Planning Officer did not agree with the applicant that such a clear demarcation of the urban area was an appropriate design response. The concerns of the planning authority's Ecologist and the DHLGH in relation to the retention of trees and hedgerows along the south/southwest boundary were also noted. FCC sought further information, in part, to address the visual impact (bulk, scale, and design) of the three-storey house and duplex unit blocks fronting the R122 (Item 2 (a)), to maximise the retention of trees and hedgerows in the south/south west of the site (Item 2 (b)), and revised proposals to address concerns relating to proposed residential units (Item 2 (c)).
- 8.3.5. In response, the applicant supported the scale of the proposed development adjacent to the R122 as applied for (with a minor alteration to the external finish of the duplex blocks), reduced two three-storey houses along the L1130 to two-storey in height, and retained approx. 120 linear metres of hedgerow along the south west and southern boundaries of Parcel 3 with the footpath moved inside the existing boundary hedgerow. Amendments were made to the proposed residential units where the applicant considered it was appropriate to do so.
- 8.3.6. The planning authority assessed the applicant's response in its second Planning Report. Revisions such as hedgerow retention, relocation of the footpath/cyclepath to the rear of the hedgerow, and the reduced house sizes along the L1130 were welcomed. Notwithstanding, the 'overall concerns relating to the negative impact of the proposed development on the visual amenities of the area remain' (page 79 of the second Planning Report). With regard to the requested amendments to the proposed residential units as per paragraph 8.3.4, comments were made on three unit types. While the Planning Officer noted issues of aggregate living area, the usability of an external space, and rear/side elevation elevations of the duplex block could be dealt with by way of a compliance condition, 60 residential units (30% of all units proposed),

would be affected. This was not considered to be acceptable and underlined the concerns regarding substandard design, internal layout, and the quality of residential amenity. These two issues formed the first reason for refusal.

- 8.3.7. The applicant's grounds of appeal are summarised in subsection 7.1 of this report. The planning authority did not engage with the grounds of appeal in this regard.

Visual Impact of the Three-Storey Buildings when Viewed from the R122

- 8.3.8. This issue formed the basis of the first part of the refusal reason and I address the specific principle of the three-storey height under this subheading. The R122 is a regional road, in my opinion this is not an area of any notable visual amenity, and the R122 is the main access road into Balbriggan directly from the M1. It is a relatively wide road with a footpath and a cycle path to both sides.
- 8.3.9. Page 36 of the FDP 2023-2029 includes the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) in a list of Guidelines which informed the core strategy and the policies and objectives of the Plan and policy SPQHP35 (Quality of Residential Development) of the Plan states 'Residential developments must accord with the ... policies and objectives contained within the Urban Development and Building Heights Guidelines (December, 2018)'. The Guidelines strongly support a three-storey height at this location. This is a greenfield/edge of town location. Paragraph 1.9 of the Guidelines states 'these guidelines require that the scope to consider general building heights of at least three to four storeys ... in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels'. SPPR 4 of the Building Height Guidelines (2018), which is based on the provisions of paragraphs 3.4-3.8, states 'It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure', inter alia, 'a greater mix of building heights and typologies in planning for the future development of suburban locations' and 'avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more'. The Guidelines (paragraph 3.7) specifically states that 'planning policies and consideration of

development proposals must move away from a 2-storey, cul-de-sac dominated approach' in suburban, greenfield developments.

- 8.3.10. I consider that three storey heights would not be out of place at this location in terms of visual impact. The duplex structures in question would overlook an important route into and out of Balbriggan and they would provide an urban edge, set back behind landscaping. Variation in height adds to the visual interest of an area and the streetscape that would result, as illustrated in, for example, views 1 and 2 of the Verified Photomontages submitted as part of the further information response. This is typical of an edge-of-town development and I consider it to be appropriate.
- 8.3.11. I acknowledge the greenfield nature of the site (notwithstanding the current condition of significant areas of the three parcels) and its location close to agricultural land/rural zoning to the west. The site is, to a degree given the irregular nature of the site boundary, in a transitional location. I consider the nature of the development in Parcel 1 and along the L1130 (noting the reduction in height of two three-storey houses along the road as part of the further information response) to be appropriate and consistent with adjacent existing/permitted development. However, the same zoning as the subject site i.e. 'residential area', applies to a small area on the west side of the L1130 to Parcel 3, and there is substantial 'residential area' and 'rural business' zonings on the opposite side of the R122 to the south and south west. These areas would possibly be developed in the future, therefore the current length of site frontage along the R122 is not necessarily the point of the future rural/urban transition. I do not consider that the proximity of the site to the rural area can dictate its form to such a degree that a three-storey structure, provided as part of a much wider development, is deemed to not be acceptable where it is appropriately zoned and is addressing a main road.
- 8.3.12. In my opinion, a height of three-storeys at this location, on a main approach to a town the size of Balbriggan, and on a road of this width, cannot be considered to be visually abrupt, obtrusive, and overly dominant, as per the wording of the refusal reason. It is a typical urban-edge development. The Building Height Guidelines (2018) strongly supports development of this type at this location and I have no concern about the visual impact of three-storey houses and duplex blocks in this edge-of-town location.

Potential Alternative Arrangement as Submitted with the Grounds of Appeal

- 8.3.13. While the applicant considers that the development as presented at further information stage is appropriate, as part of the grounds of appeal a potential amended frontage to the R122 was provided should the Board wish to amend the scheme. The amended proposals show 12 three-storey townhouses in four terraces (three houses per terrace) replacing 16 duplex units in four blocks, on similar footprints. They are also shown on the 'Verified Photomontages' dated December 2024 submitted with the grounds of appeal.
- 8.3.14. While I consider that the potential alternative townhouses would be acceptable in terms of their design and visual impact should the Board prefer this alternative, I consider that the duplex units as originally applied for and as slightly amended at further information stage are also acceptable and are preferable for reasons of housing mix, increased density, and provision of a more urban streetscape.

Substandard Design and Layout of Proposed Residential Units

- 8.3.15. In Item 2 (c) of the further information request the planning authority outlined a number of concerns, as identified in the Architect's Department report, relating to multiple proposed residential units. The applicant's response addressed, inter alia, a number of separate window issues, internal layout arrangements, treatment of elevations, and amendment of some private open space areas.
- 8.3.16. On foot of the further information response, the planning authority considered that issues remained with three of the proposed unit types; two house types (F3 and G) and the duplex block. The issues related to the aggregate living area (F3), the usability of an external space (G), and the elevational treatment of the rear/side elevations of the duplex block. Though the planning authority Planning Report noted these could be addressed by condition, it would require amendments to a significant number of proposed units and this 'underlines the Planning Authority's serious concerns regarding the substandard design and internal layout of the residential unit and the quality of residential amenity provided to future occupants ...' As such, a refusal was recommended.
- 8.3.17. In the grounds of appeal the applicant disputes that the development is substandard in design. My assessment in this regard is as follows.

House type F3

- 8.3.18. There are 26 two-storey semi-detached houses of this type. The planning authority's concern related to the aggregate living area/internal layout and passive overlooking. In the initial application the house had an aggregate living area of 31.3sqm, below the 34sqm required in the Quality Housing for Sustainable Communities Guidelines (2007). In the further information response the applicant made a very slight adjustment and included a 2sqm study/workspace within the hall area as part of the aggregate living area. The planning authority did not accept this study/workspace as acceptable 'living' area, and I agree because it would not form part of the kitchen, living, or dining areas.
- 8.3.19. As part of the grounds of appeal a revised floor plan, elevation and section drawing (A507-DCA-XX-XX-DR-A-112) was provided. While this provides for the required 34sqm aggregate floor area, I consider that there is an absence of passive surveillance from the first floor side elevations, which are occupied by bedrooms. A number of these houses overlook public areas and I consider a second bedroom window should be included for appropriate houses should permission be granted.

House type G

- 8.3.20. There are 18 three-storey townhouses of this type. The planning authority's concern related to the usability of the 'long and narrow proportions (approx. 2m x 3.375m) of the external space between 3-storey high walls' (page 87 of the second Planning Report). An amended townhouse design (Type H) was provided with the grounds of appeal. The grounds of appeal state this 'removes the narrow external space to create a more uniform design that makes reference to the three-storey house types proposed elsewhere in the development'. I consider the revised house type is acceptable and addresses the planning authority's concern.
- 8.3.21. Revised house type H was submitted with the grounds of appeal to address the planning authority's concern with house type G. As well as addressing the open space usability issue the revised house type also provides for improved passive overlooking. As applied for, house type G houses had a combined kitchen/living/dining (KLD) on the ground floor, two bedrooms on the first floor, and a bedroom and study on the second floor. Drawing nos. A507-DCA-XX-XX-DR-A-143/144/145 submitted with the

grounds of appeal illustrate a revised house type H with a combined KLD at ground floor, a bedroom and a sitting room at first floor, and two bedrooms at second floor. The sitting room is provided to the rear of the houses and would increase overlooking to the car parking and public open space areas while maintaining passive surveillance over the Boulevard and C-Ring roads. I do not consider that this would be a material alteration to the development as originally applied for, it would have negligible impact on the established residential area, and it would increase overlooking of public areas. I consider that the design of the revised townhouses is an improvement on that originally applied for and, should a grant of permission issue, I recommend that this amended house type be conditioned for inclusion.

Duplex units

- 8.3.22. There are 16 proposed duplex units in four separate blocks parallel to the R122. They comprise eight one-bed units and eight three-bed units. The planning authority's concern relates to the rear elevation of the blocks, which were considered to be aesthetically poor, with small windows and large areas of blank wall. Slight alterations were made as part of the further information response.
- 8.3.23. In the grounds of appeal the applicant references the potential for the replacement of the duplex units with revised townhouses. I have addressed this previously and I consider that the duplex units are acceptable in principle along the R122. Revisions to the duplex blocks in the grounds of appeal are an increase in the number and size of windows at first and second floors and full brick coverage as the external finish. I consider that the proposed revisions improve the appearance of the duplex blocks. The additional and amended fenestration reduces the extent of the blank façade on the rear elevation, and it would have a more appropriate consistent finish to both the rear and side elevations.

Conclusion

- 8.3.24. I consider that the provision of three-storey structures along the R122 is entirely appropriate at this location and is strongly supported by the relevant local and national policy framework. It is my opinion that they would not result in a visually abrupt, obtrusive and overly dominant form of development at this urban edge location. I consider that the relatively minor revisions made to the residential units which were

identified in the planning authority's second Planning Report have largely addressed the deficiencies cited by FCC and these can be appropriately conditioned in any grant of permission that may issue. I consider that first primary issue of the planning authority's reason for refusal is unwarranted, and the second primary issue has been addressed in the grounds of appeal.

8.4. The Planning Authority's Second Reason for Refusal

8.4.1. The planning authority's second reason for refusal is as follows.

The proposed development, by virtue of its layout and design, would preclude the complete delivery of the C-Ring Road proposal as indicated on Map Sheet No. 4 'Balbriggan' of the Fingal Development Plan 2023-2029; and preclude the potential upgrade of the L1130/L5450 and the R122 crossroads should the C-Ring Road proposal not be delivered in full. The proposed development is not in accordance with an objective of the Fingal Development Plan 2023-2029 and, therefore, would be contrary to the proper planning and sustainable development of the area.

8.4.2. I consider it appropriate to assess the reason for refusal under different subheadings, as set out below. As with the first reason for refusal there are two primary issues: (i) the C-Ring road and (ii) the potential upgrade of the L1130/L5450 and R122 crossroads.

8.4.3. I note initially, as referenced by the applicant, that the planning authority stated that the proposed development would not be in accordance with an objective of the FDP 2023-2029. However, no specific objective is referred to in the reason. Notwithstanding, objective CMO41 seeks to implement the transportation schemes indicated in table 6.3 of the Plan. One of these schemes is 'Balbriggan Ring Road R122 to R132'. It appears that it is this objective that is being alluded to. The R132 is a regional road approximately 1.5km to the east/north east of the site which connects Balbriggan to Drogheda. Sheet No. 4 (Balbriggan) and Sheet No. 17 (Connectivity and Movement) show a road proposal objective linking the R132 to the northern arm of the existing R122 roundabout which is approx. 100 metres to the south of the site. The northern arm does not currently exist, but there is provision at the roundabout for connection to a future road to/from the north.

- 8.4.4. While the reason for refusal relates heavily to the C-Ring Road proposal, I note that no part of the proposed C-Ring is subject of this planning application. The proposed northern and western parcels are adjacent to it and would access it and form part of its streetscape, but unlike the Flemington Lane LRD for example, no part of the proposed C-Ring forms part of the planning application.

Background to the Reason for Refusal

- 8.4.5. The planning authority's Transportation Section provided a report for the Planning Officer on foot of the application. The first planning authority Planning Report states that the application drawings do not correctly show the route of the C-Ring as per Map 4. Specifically the drawings showed the C-Ring intersecting the L1130 instead of following the line of the L1130. Map 4 indicates the C-Ring following the L1130 for approx. 200 metres along the L1130/Parcel 2 boundary and to the front of the adjacent house to the south of Parcel 2, before a slight change of direction to connect as the northern arm of the existing R122 roundabout. A layout amendment was required to provide a proposal showing infrastructure associated with the C-Ring along the boundary of Parcel 2, with the associated footpath and cycle path recessed behind the existing boundary hedgerow. It was considered that the layout as proposed prevented the delivery of the C-Ring as per Sheet No. 4.
- 8.4.6. The Planning Report also noted the submitted design for a potential signalised upgrade of the L1130/L5450/R122 to demonstrate that the proposed development would not preclude this upgrade. The Planning Report also noted that this was outside the application red line site boundary. The Transportation Section report considered the proposed development would preclude a potential upgrade of the junction because it would not facilitate a perpendicular alignment of the crossroads because of the footprint of the duplex block. The applicant also requested ceding an area of land along the L1130 to allow future delivery of a footpath and cycle path along the road.
- 8.4.7. Further information was sought on these three issues under Item 3 (a; C-Ring), (b; L1130/R122 junction upgrade) and (d; ceding of land)¹⁵.
- 8.4.8. In response to (a) the applicant stated that the C-Ring alignment illustrated was designed to facilitate the connection between the permitted C-Ring location as per the

¹⁵ Subsection (c) related to roadside drainage along the L1130.

Flemington Road LRD and the northern arm of the existing roundabout. The Development Plan alignment 'was not feasible due to the constraints of the minimum radius required' for the C-Ring road. It was also noted that the Plan stated the route was indicative only. Three route options were provided, none of which aligned with the L1130, and one of which affect the proposed development. In relation to (b) the applicant noted, inter alia, that there is no planning or transport-related grounds to sanitise part of the site for speculative works, the C-Ring adjacent to the site would render the junction redundant from a traffic circulation perspective, signalisation of the junction would fully mitigate geometry and visibility deficiencies, and extensive reconfiguration of the junction would require compulsory purchase orders from a larger number of parties compared to construction of the C-Ring along the indicative alignment. In relation to (d), a land ceding map was submitted (Drawing no. A507-DCA-XX-XX-DR-A-029).

- 8.4.9. In the assessment of the further information responses to Item 3, the second Planning Report, based on the Transportation Planning Section report, suggested that the northern connection point as per the Flemington Lane LRD is subject to amendment and that units could be removed from the northern area of Parcel 2. Similarly, the planning authority's concerns in relation to the potential junction upgrade were not addressed. Proposed units are too close to the junction, and this would preclude a perpendicular alignment. These two issues formed the second reason for refusal. The amendment as per subsection (d) was noted.
- 8.4.10. The applicant's grounds of appeal are summarised in subsection 7.1 of this report. As with the first reason for refusal, the planning authority has made no further response to the grounds of appeal in this regard.

The C-Ring Road

- 8.4.11. Concern about the C-Ring alignment formed the basis of the first part of the refusal reason. It is stated that the layout and design of the proposed development would preclude the complete delivery of the road proposal as indicated on Sheet No. 4 of the Plan. The area of the subject site affected by the C-Ring proposal is the northern area of Parcel 2. The applicant states that the road alignment as per Sheet No. 4 cannot be achieved along the L1130 because of the position of the northern connection point of

the C-Ring as permitted as part of the Flemington Lane LRD and the minimum curve radius requirements for a road of this type. In addition, there is an extant permission for residential units in the northern area of Parcel 2 (F22A/0670) which is subject of alteration under this application.

- 8.4.12. The C-Ring road proposal objective is illustrated on Sheet Nos. 4 and 17 of the FDP 2023-2029. A 'Note' on Sheet No. 17 states 'This map illustrates in an indicative fashion, potential future connectivity and movement projects. Each of these were applicable, will be subject to separate assessment and consent procedures ...' [sic]. While normal practice would be to follow an indicated route as closely as possible, the Plan acknowledges that the route is only indicative and therefore I do not consider that the C-Ring must follow the L1130 for the approx. 200 metres illustrated on Sheets 4 and 17. The C-Ring is to be delivered on a piecemeal basis, largely dependent on separate planning applications. For example, approx. 1km of the C-Ring is to be delivered as part of the permitted Flemington Lane LRD. There does not appear to be any more formal local authority overview, for example, project planning, constraint study, public consultation, route selection, or preliminary design, other than the indicative road proposal route. The remainder of the C-Ring to the west/south west on the opposite side of the L1130 is not likely to be delivered as part of a wider development in the short-term given the 'rural' zoning.
- 8.4.13. A ten-year permission was granted under F22A/0670 in July 2023 for, inter alia, 75 residential units. That permission includes part of the northern area of Parcel 2 of the current application where it is proposed to replace three permitted houses with four proposed houses. I note that the vast majority of houses under F22A/0670 have been constructed and are occupied, including adjacent to the Parcel 2 northern site boundary. The applicant has demonstrated in figure 8.14 of the First Party Appeal document that to construct the C-Ring along the L1130 as indicated with the minimum required curve radius, from the connection point of the permitted LRD road, would encroach onto existing and permitted development. I do not consider this to be a plausible, workable, or feasible approach to delivery of the C-Ring. I also note that the

site layout plan cited in Condition 3 of F22A/0670 (drawing no. P3-012) showed the C-Ring route alignment to the west as similar to that of the current application¹⁶.

- 8.4.14. The Transportation Planning Section report prepared on foot of the further information response suggests that there is scope to amend or alter the northern connection point for the C-Ring i.e. the point of its end in the southern area of the Flemington Lane LRD. The applicant disputes that this connection point can be changed by agreement and considers that it must be in the location shown on the LRD permission. While the permission requires certain issues to be agreed with the planning authority e.g. Condition 7 requires detailed design and specification of the Boulevard Road/R122 junction, pedestrian crossings, proposed junctions, bus stop locations, and traffic calming proposals, the applicant contends that these compliance conditions do not include the location of the C-Ring. I agree with the applicant that the footprint of the C-Ring road is required to be in the location permitted, and it is not subject of any compliance agreement.
- 8.4.15. I note the wording of the Transportation Planning Section report based on the applicant's further information response. The report does not specifically recommend a refusal. It is the 'preference' that the C-Ring follows the L1130 and the Section 'does not support the proposed development in its current format'.
- 8.4.16. I agree with the wording of the refusal reason that the proposed development, by virtue of its layout and design, would preclude the complete delivery of the C-Ring Road proposal as indicated on Sheet Nos. 4 and 17 of the FDP 2023-2029. As a result of the proposed development on Parcel 2 (notwithstanding the applicant's assertion that it cannot be achieved in any event because of extant permitted development and minimum radius requirements) the C-Ring does not follow the line of the L1130 for approximately 200 metres before turning in a south westerly direction, so the wording is accurate. However, as the C-Ring can still be constructed from the northern connection point to the southern connection point (existing roundabout), the proposed development would not affect the basic principle of the construction of the road and therefore it would not preclude the delivery of the road itself which in my opinion is the

¹⁶ Sheet No. 4 (Balbriggan) of the FDP 2017-2023 also outlined a road proposal objective for the C-Ring. It followed a more natural curve to the west, as per the route illustrated on the current site layout and that shown on the site layout plan for F22A/0670, rather than following the L1130 for any distance.

sole objective of the road proposal objective in the Plan. Crucially, Sheet No. 17 of the FDP 2023-2029 makes it clear that the road objective route is indicative, with each development being subject to separate assessment and consent procedures. Therefore, in my opinion, the Plan allows for a departure from the illustrated indicative route and this departure would not have any material impact on the achievement of the ultimate objective i.e. the delivery of the road.

Upgrade of the L1130/L5450/R122 Crossroads

- 8.4.17. The second part of the second reason for refusal relates to concern that the layout and design of the south western area of Parcel 3 would preclude the potential upgrade of the L1130/L5450/R122 crossroads 'should the C-Ring Road proposal not be delivered in full'. This conflicts with the provisions of the first Transportation Planning Section report which stated 'The proposal has been amended and the previously proposed vehicular access off the L1130 has been removed'¹⁷. Thus, negating any requirement to provide a complete upgrade of the junction of the L1130 and R122'.
- 8.4.18. The L1130 runs along the western boundary of the overall Folkstown Park/Ladywell development. It is rural in nature with trees/hedgerows to both sides. Its eastern side is being progressively developed while there are agricultural fields to its west side. It is relatively heavily trafficked and it has no infrastructure for pedestrians or cyclists. The L5450 is similarly rural in nature with no infrastructure for vulnerable road users. The R122 is a wide road with verges, footpaths, and cycle paths to both sides.
- 8.4.19. The wording of the planning authority reason for refusal implies that this junction may need to be upgraded if the C-Ring Road is not delivered in full. However, all development in Folkstown Park (existing/permitted and proposed under this application), Flemington Lane LRD, and potential users of the playing fields/park to the north of the site, are accommodated by Boulevard Road, Hamlet Lane, or Flemington Lane. There is no direct access proposed onto the L1130 from any of these developments. Therefore, I do not consider that an upgrade of this crossroads would be required even if the C-Ring is not delivered in full. The C-Ring as permitted as part of the LRD permission does not directly access the L1130. Condition 4 of the permission requires the applicant to transfer an area of land to the planning authority

¹⁷ This relates to a proposal for access onto the L1130 at pre-application stage.

to facilitate the continuation of the road proposal objective as far as the L1130. This would leave the planning authority in a position to progress works to connect the C-Ring from the northern arm of the R122 roundabout to Flemington Lane, subject to normal road construction requirements on the west side of the L1130. Given the absence of any direct access onto the L1130 I do not foresee a situation where a junction upgrade would be necessary as the local authority could itself ensure no access to the L1130 from the C-Ring until such time as it is delivered in full. Traffic on the L1130 would remain as currently existing, with natural growth.

8.4.20. The applicant considers that there are no grounds for sterilising land adjacent to the junction to accommodate potential speculative works for a perpendicular crossroads. The planning authority has not specified a required set back distance to accommodate the proposed upgrade. Duplex units are proposed adjacent to the junction. Omitting these, or setting them back further into the site, would, in my opinion, reduce the creation of an urban form at this edge-of-town location and would have a detrimental impact on the streetscape. The further information request sought, in part, the retention of trees and hedgerows at this location. To upgrade this junction would likely result in their removal.

8.4.21. While reserving areas of land to accommodate future infrastructure works is good practice, I do not consider that a robust case for an amended perpendicular alignment of the crossroads has been established by the planning authority in this instance. The local authority can control access onto the L1130 and none of the existing, permitted, or proposed developments in Folkstown Park or Flemington Lane have direct access to the local road, whether the C-Ring Road proposal is delivered in full or not. Therefore, demand from new development on the L1130 is not likely to be the reason a crossroads upgrade may be required. I also note that the applicant states that a crossroads upgrade could be provided by the planning authority in line with TII provisions with a signalised system overcoming any deficiencies that may exist.

Conclusion

8.4.22. Although the C-Ring Road is cited throughout the second reason for refusal, no part of it is subject of this planning application. The road objective proposal route shown in the FDP 2023-2029 is indicative. Having regard to the content of the Plan there is no

requirement to follow it exactly as it is set out in Sheet Nos. 4 and 17. The applicant has indicated that this would not be possible in any event because of extant permitted development and the minimum required curve radius.

8.4.23. I do not consider that there is any strong rationale for an upgrade of the L1130/R122 junction. The significant amount of existing and permitted development in the vicinity does not directly access the L1130 and the local authority can ensure that this remains the case until such time as it has constructed the C-Ring to an appropriate extent. Even if it did require to be upgraded the applicant has demonstrated that this could be carried out.

8.4.24. Having regard to the foregoing, I consider that the planning authority's second reason for refusal is not justified.

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

8.5.1. This section briefly assesses relevant aspects of the proposed development that would affect the amenity of residents. The application documentation includes a Planning Report and Statement of Consistency, Design Statement Phase 4, Social Infrastructure Audit, Landscape and Green Infrastructure Report, and Verified Photomontages which all contain numerous photographs and images illustrating the layout and design of the proposed development.

Site layout, architectural design, and visual impact

8.5.2. The application contains three separate parcels of land, all independent of each other, but which overall form further extensions of the under construction/partially occupied Folkstown Park. I consider that the proposed layouts and housing footprints reflect the pattern of development established by the earlier phases of Folkstown Park, as can be seen from the overall site layout plan illustrating the wider area.

8.5.3. There are two commercial units proposed as the ground floor element of the three-storey structure at the northern end of Parcel 1. This location is at the permitted crossroads junction of the Boulevard Road and the C-Ring. There are permitted four-storey mixed-use apartments on the opposite side of this junction so the two proposed commercial units would form part of a more substantial retail/commercial node.

- 8.5.4. All proposed structures around the perimeters of the three parcels are outward facing in that they provide passive surveillance over the L1130, the R122, the Boulevard, and the C-Ring. The three-storey structures i.e. mixed-use apartment building, the townhouses, and the duplex units, are all located on the perimeter of the site boundaries. This would provide an appropriate urban edge to the three parcels and contribute towards the built form.
- 8.5.5. The overall Folkstown Park development i.e. occupied, under construction, and proposed, has six 'character areas'. Parcel 1 (The Village) is its own area. Parcel 2 is predominantly part of The Park area apart from the proposed townhouses which are part of The Avenue area. The part of Parcel 3 north of the riparian corridor is part of the River Court area, apart from the townhouses which are part of The Boulevard area. Parcel 3 south of the riparian corridor forms The Glen area. Contributory factors to each character area are, according to the application, external materials, open space, and density.
- 8.5.6. I consider that the general layout in terms of pedestrian and cycling connectivity and open spaces is acceptable. The DMURS Statement of Consistency concludes that the proposed development complies with DMURS requirements. The density is within the range appropriate for this area, and it is indicated that the riparian corridor through the southern area of the site is to be protected. The site layout in the south/south western corner has been slightly altered through further information, with additional trees and hedgerow to be retained in this area. I consider this to be appropriate. In line with the second planning authority Ecologist's report I consider an updated landscape plan for this area, to include a long-term management plan, would be appropriate should permission be granted.
- 8.5.7. I consider that the proposed residential units are consistent with the existing pattern of development in Folkstown Park. External finishes are brick and render with grey/black roof tiles, as per the existing development. The proposed structures will appropriately blend with the existing development and built environment.
- 8.5.8. Heights throughout the proposed development range between single and three-storeys. This would not result in any visual incongruity and it is consistent with existing and permitted development. For example there are four-storey mixed-use apartment

buildings on the opposite side of the permitted junction from the mixed-use development proposed in Parcel 1 and there are three-storey buildings in Folkstown Park immediately south of proposed no. 10 in Parcel 1 and at the north-side junction of the Boulevard Road southern vehicular access point into Folkstown Park that would be utilised by residents of Parcel 3.

8.5.9. The documentation submitted with the application contains a number of images, drawing, illustrations, and photomontages to outline the visual impact of the proposed development. Given the nature and scale of the proposed development, the pattern of existing and permitted development in the vicinity, and the zoning objective of the site I consider that there would be no adverse visual impact.

8.5.10. Having regard to the foregoing I consider the proposed development would be appropriate in terms of its site layout, architectural design, and visual impact.

Open space

8.5.11. The application provides 8,490sqm (0.86 hectares) of public open space in eight separate areas, approx. 16.1% of the net site area, excluding the public open space associated with the riparian corridor in Parcel 3. 660sqm is also provided as communal open space for the apartments, townhouses, and duplex units. I consider that the spaces are appropriately usable and are well overlooked.

8.5.12. In the first Parks and Green Infrastructure Division report it is stated that the development has a shortfall in the 15% public open space provision. However, in my opinion this shortfall is based on an erroneous net site area of 7.15 hectares, which is the gross area. The net area is 5.27 hectares and the 0.849 hectares proposed exceeds the minimum required and therefore, in my view, there is no shortfall.

8.5.13. The report recommends the attachment of a number of conditions to any grant of permission. Many of these relate to the detailed design of play facilities and general landscaping. I consider these can be addressed by way of a general condition. A tree bond of €100,000 is recommended. Given the riparian corridor and the trees and hedgerows throughout the site, I consider this is reasonable and can be attached to any grant of permission.

8.5.14. I am satisfied that adequate public open space has been provided.

Permeability

- 8.5.15. I consider that the permeability within and through the site, both to Folkstown Park and to the wider road network, is very good for all three parcels subject of this planning application.
- 8.5.16. I consider that the internal estate roads should be constructed up to the site boundary at two locations to accommodate potential future connectivity to properties on Clonard Road i.e. to the front of no. 60 in Parcel 2 and to the front of no. 66 in Parcel 3 (though the layout does show the road up to the boundary at this location).

Housing mix

- 8.5.17. Objective CSO17 of the FDP 2023-2029 promotes 'high quality residential development which meets the needs of all stages of the life cycle through an appropriate mix of house type and local amenities'.
- 8.5.18. Having regard to table 2.2 (Unit Breakdown) in paragraph 2.2 of this report I consider that the housing mix proposed within this application is appropriate and achieves the mix of house types sought. The later-living units are notably relevant for the later stages of the life cycle. Objective DMSO37 of the Plan requires that new residential developments in excess of 100 units provide 10% of the units as age friendly accommodation. Page 10 of the Planning Report and Statement of Consistency states that the 18 later-living units and six ground floor maisonettes equates to 12% of the units. I note that condition 5 of F22A/0670 relates specifically to age-friendly housing and I consider it appropriate that a similar condition be included in any grant of permission that may issue. Local amenities are provided both on site and in the vicinity. I consider objective CSO17 is met in this application.

Residential amenity

- 8.5.19. The planning authority undertook a thorough assessment of each of the proposed residential unit types in terms of their floor areas, elevation treatments, private and communal open space areas etc. as evidenced by the detailed Architect's Department report upon which Item 2 (c) of the further information request was based, and the Planning Officer's report. Upon receipt of the further information response the Architect's Department prepared a second report which supported the second part of

the first reason for refusal. I have addressed these specific issues in subsection 8.3 of this report.

- 8.5.20. I am satisfied that the proposed development would result in an acceptable level of residential amenity for the future occupants.

Parking

- 8.5.21. This site is in a peripheral location as per table 3.8 (Accessibility) of the Compact Settlement Guidelines (2024). SPPR 3 (Car Parking) (iii) of the Guidelines states that in such a location ‘the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling’. 280 car parking spaces are provided in the form of 178 in-curtilage spaces, 67 on-street spaces, 27 visitor spaces, 4 car club spaces, 4 commercial spaces, and 9 spaces for the later living units. Each residential unit has at least one car parking space, except the later living units which have a rate of 0.5 spaces per unit. This gives an average of 1.4 spaces per unit and is therefore below the maximum rate.

- 8.5.22. The proposed car parking was acceptable to the Transportation Planning Section. I consider that the car parking provision accords with the provisions of SPPR 3 and is acceptable.

- 8.5.23. In relation to bicycles, the Planning Report and Statement of Consistency states that only units without access to secure rear gardens are provided with secure bike storage. Bicycle storage has been provided to the satisfaction of the planning authority, and I agree that it is adequate.

Daylight and sunlight

- 8.5.24. Notwithstanding the low rise nature of the development, the applicant submitted a Daylight and Sunlight Analysis with the application. No notable adverse impact would result to the proposed buildings within the proposed development or to existing buildings as a result of the proposed development.

- 8.5.25. Objective DMSO22 of the Fingal Development Plan 2023-2029 is to ‘Require Daylight and Sunlight analysis for all proposed developments of 50+ units or as required by the Planning Authority, depending on the context of the site and neighbouring property as

well as the design of the development'. Section 5.3.7 (Daylight) (a) of the Compact Settlement Guidelines (2024) states, inter alia, 'Planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases. It should be clear from the assessment of architectural drawings (including sections) in the case of low-rise housing with good separation from existing and proposed buildings that undue impact would not arise, and planning authorities may apply a level of discretion in this regard'.

- 8.5.26. Having regard to the provisions of both the FDP 2023-2029 and the Compact Settlement Guidelines (2024), the relatively low-rise nature of the proposed development, the relatively low density, and the provisions of the submitted Analysis, I am satisfied there would be no undue daylight or sunlight impact arising.

8.6. Impact on Existing/Permitted Residential Amenity

- 8.6.1. Notwithstanding that this is a first party appeal to a refusal of permission and no observations have been received on it, I will briefly consider the issues commonly raised in terms of impact on existing residential amenity.

Overlooking

- 8.6.2. In the northern parcel (Parcel 1) the proposed residential units around the boundary all address roads: Boulevard Road, the permitted C-Ring, or the existing internal access road along the southern boundary where there is a separation distance of approximately 23 metres to opposing houses.
- 8.6.3. In the western parcel (Parcel 2) the proposed townhouses in the northern area overlook the C-Ring to the west and public open space to the east. Five houses overlook Clonard Road. Two terraces of houses in the central area are 'side on' to existing adjacent buildings. The first floor side elevation landing windows to these proposed houses have opaque glazing. The rear garden depths of houses in the southern area are approximately 9 metres – 11 metres to boundaries. The closest house to the adjacent semi-detached two-storey house has opaque glazing to the first floor side elevation. There would be an impact to the adjacent house to the south from overlooking of the front area from the first floor rear of some houses, but this front area is also visible from the public road.

8.6.4. In the southern parcel (Parcel 3) all houses around the perimeter overlook Clonard Road, the R122, or Boulevard Road. I do not consider any overlooking to existing properties would arise from the proposed houses along the 'internal' boundary in the north western area of the parcel as a result of separation distances, no or opaque glazing at first floor, and the absence of habitable rooms. All of the later-living units are single-storey in scale.

8.6.5. I do not consider undue overlooking would occur from the proposed development to existing development.

Shadowing impact

8.6.6. Given the two-storey and single-storey scale of the majority of proposed units and separation distances I do not consider there would be any undue shadowing impact. The three storey apartment/retail block, duplex units, and townhouses are not located in particularly close proximity to existing development.

Overbearing impact

8.6.7. The proposed single, two, and three-storey structures are low-rise units in an edge-of-urban location which are reflective of the existing and permitted pattern of development in the vicinity. I do not consider any overbearing impact would arise to existing or permitted residential areas.

8.7. Other Matters

8.7.1. There are also some other relevant issues which can be addressed.

Junction upgrade of the Boulevard/R122

8.7.2. It is proposed to upgrade this junction as part of this development. I note it was also proposed as part of other developments such as the Flemington Lane LRD. Two design proposals have been provided. The first Transportation Planning Section report stated a preference for the 'Alternative Clonard Road Signalised Junction' layout as it is more aligned to the National Cycle Manual. The report also recommended that the junction shall be delivered in its entirety within the first phase of development.

8.7.3. Condition 7 (a) of the Flemington Lane permission states that prior to the commencement of development, the developer shall submit the detailed design and

specification of the signalised junction of Boulevard Road and the R122 for the written approval of the planning authority. In the interest of consistency I consider a condition with the same wording should issue in the event of a grant of permission. I also consider it appropriate, given the extent of existing and permitted development that would use this junction, to condition that it be delivered as part of the first phase of development, as recommended by the Transportation Planning Section.

Creche

- 8.7.4. It is not proposed to provide a creche as part of the proposed development. It is stated that the overall Glenveagh Homes development in the vicinity (the current applicant is a subsidiary of Glenveagh Homes) is 819 residential units. A 1,025sqm/205 child capacity creche was permitted as part of an earlier application (F20A/0026). The combined 819 residential units equates to a demand for approximately 204 creche spaces. It is stated that this would absorb any potential demand arising. I also note that there are three creche facilities permitted as part of the Flemington Lane LRD with a capacity of 160.
- 8.7.5. The applicant indicates in both the Planning Report and Statement of Consistency and the Social Infrastructure Audit that the creche permitted under F20A/0026 was under construction at the time of the submission of the application. It is approximately 200 metres from both Parcels 1 and 3. As the applicant has linked childcare capacity to this creche, I consider it reasonable to attach a condition that none of the residential units in this application are occupied until this creche is available for operation.

Public art

- 8.7.6. Objective DMSO194 of the FDP 2023-2029 requires new residential developments in excess of 100 units to provide for a piece of public art to be agreed with the Council. Should permission be granted I consider that this can be appropriately conditioned.

9.0 Environmental Impact Assessment (EIA)

9.1. Statutory Provisions

- 9.1.1. This section sets out the EIA of the proposed project and should be read in conjunction with both the planning assessment and appropriate assessment sections of this report. The proposed development provides for 197 residential units and associated site works on a site with a gross area of 7.15 hectares in Balbriggan, Co. Dublin.
- 9.1.2. An Environmental Impact Assessment Report (EIAR) has been prepared because the cumulative size of the proposed development plus the under construction/partially occupied Folkstown Park would breach the Schedule 5 Part 2 Paragraph 10 (b)(iv) threshold of the Planning & Development Regulations, 2001 (as amended), which is urban development involving an area greater than 10 hectares in a built-up area.

9.2. EIA Structure

- 9.2.1. Section 9 of this report comprises my EIA of the proposed development in accordance with the Planning & Development Act, 2000 (as amended) and the associated Planning & Development Regulations, 2001 (as amended), which incorporate the European directives on environmental impact assessment (Directive 2011/92/EU as amended by 2014/52/EU). Section 171 of the Planning & Development Act, 2000 (as amended) defines EIA as:
 - (a) consisting of the preparation of an EIAR by the applicant, the carrying out of consultations, the examination of the EIAR and relevant supplementary information by the Board, the reasoned conclusions of the Board and the integration of the reasoned conclusion into the decision of the Board, and,
 - (b) includes an examination, analysis and evaluation, by the Board, that identifies, describes and assesses the likely direct and indirect significant effects of the proposed development on defined environmental parameters and the interaction of these factors, and which includes significant effects arising from the vulnerability of the project to risks of major accidents and/or disasters.

9.2.2. Article 94 of the Planning & Development Regulations, 2001 (as amended) and associated Schedule 6 set out requirements on the contents of an EIAR.

9.2.3. This EIA section of the report is therefore divided into two sections. The first section assesses compliance with the requirements of Article 94 and Schedule 6 of the Regulations, 2001 (as amended). The second section provides an examination, analysis, and evaluation of the development and an assessment of the likely direct and indirect significant effects of it on the following defined environmental parameters, having regard to the EIAR and relevant supplementary information:

- population and human health,
- biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive,
- land, soil, water, air and climate,
- material assets, cultural heritage and the landscape,
- the interaction between the above factors, and
- the vulnerability of the proposed development to risks of major accidents and/or disasters.

9.2.4. The second EIA section also provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Board's decision, should it agree with the recommendation made. It should be noted that reasoned conclusion refers to significant effects which remain after mitigation. Therefore, while I outline the main significant direct, indirect, and cumulative effects at the conclusion of my assessment of each environmental factor, only those effects that are not or cannot be appropriately mitigated are incorporated into my reasoned conclusion in subsection 9.17.

9.3. Issues Raised in Respect of EIA

9.3.1. FCC sought further information, in part, on the content of the submitted EIAR. Issues related to cumulative assessment, residual impact in relation to traffic, and the environmental impact of decommissioning temporary works. The planning authority was satisfied with the applicant's response and there was no material alteration to the EIAR as submitted.

- 9.3.2. No third-party observations have been received by the Board on foot of the appeal. Related issues raised by third parties in submissions to the planning authority are residential amenity issues as opposed to EIA-specific issues.

9.4. **Compliance with the Requirements of Article 94 and Schedule 6 of the Planning Regulations**

- 9.4.1. In the table below, I assess the compliance of the submitted EIAR with the requirements of article 94 and schedule 6 of the Planning & Development Regulations, 2001 (as amended).

Table 9.1 – Compliance with the Requirements of Article 94 and Schedule 6 of the Planning Regulations

Article 94(a) Information to be contained in an EIAR (Schedule 6, paragraph 1)
A description of the proposed development comprising information on the site, design, size, and other relevant features of the proposed development, including the additional information referred to under section 94(b).
A description of the proposed development is contained in Chapter 2 (Description of the Project and Alternatives) of the EIAR. Chapter subsections include Description of the Location of the Project, Description Proposed Development [sic], Residential Development, Landscape Strategy, and Description of the Main Characteristics of the Construction Phase. No demolition works are proposed. I am satisfied that the development description provided is adequate to enable a decision.
A description of the likely significant effects on the environment of the proposed development, including the additional information referred to under section 94(b).
An assessment of the likely significant direct, indirect, and cumulative effects of the development is carried out for each of the technical chapters of the EIAR. I am satisfied that the assessment of significant effects is comprehensive and sufficiently robust to enable a decision on the project.
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).

Mitigation is addressed in each of the EIAR technical chapters. Chapter 17 (Summary of EIA Mitigation and Monitoring Measures) sets out a summary of the range of methods described within the individual chapters which are proposed as mitigation and for monitoring. Relevant supporting appendices include a CEMP, a RWMP, and an OWMP.

I am satisfied that proposed mitigation measures comprise standard good practices and site-specific measures that are capable of offsetting 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 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).

Subsection 2.24 (Alternatives Examined/Considered) provides an overview of the alternatives considered.

An alternative location was not examined because the site is zoned to accommodate the uses proposed. A do-nothing alternative would be an inefficient use of zoned lands. In terms of alternative uses, though other uses are permitted on site, the proposed development is an appropriate land use. Given the residential nature of the project, alternative processes were limited to construction methods. Alternative layouts are outlined that were considered before the current layout was progressed and reasons for choosing this option are set out.

I am satisfied that reasonable alternatives were considered, the main reasons have been set out for opting for the layout proposed, and potential impacts on the environment have been taken into account.

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.

The baseline environment is addressed in each technical chapter within the EIAR and the likely evolution of the environment in the absence of the proposed development is described, with particular reference to 'do nothing' scenarios. I am satisfied with the descriptions of same.

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 technical deficiencies or lack of knowledge) encountered compiling the required information, and the main uncertainties involved.

The relevant methodology employed in preparing the EIAR, including desk-based assessment, consultations, site visits, site investigations and excavations, impact assessment etc. is set out in the individual chapters.

The applicant has identified any difficulties encountered in each technical chapter. None were identified except in the waste chapter. This noted that it is difficult to predict the construction waste that will be generated. In addition, the potential for encountering different soil types makes it difficult to identify an appropriate licenced waste facility, an identified facility may not be available because of its capacity, or a more suitably located site may become available.

I am satisfied that the forecasting methods overall are adequate in respect of likely effects.

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.

Chapter 15 (Risk Management for Major Accidents and/or Disasters) identifies and assesses the likelihood and potential significant adverse impacts on the environment arising from the vulnerability of the proposed development to risks of major accidents and/or natural disasters. It considers whether the proposed development is likely to cause accidents and/or disasters and its vulnerability to them. I am satisfied this issue has been adequately addressed in the EIAR.

Article 94 (c) A summary of the information in non-technical language.
The EIAR submitted with the application comprises Volume I (Non-Technical Summary), Volume II (Main Report (in two parts)), and Volume III (Technical Appendices (in three parts)). I am satisfied that the Non-Technical Summary is concise, suitably comprehensive, and would be easily understood by members of the public.
Article 94 (d) Sources used for the description and the assessments used in the report
Each chapter provides a list of documents and information used to inform the chapter assessment. I consider the sources relied upon are generally appropriate and sufficient in this regard.
Article 94 (e) A list of the experts who contributed to the preparation of the report
A list of the various experts who contributed to the EIAR, their specialist topic(s)/input, and their qualifications are set out in table 1.5 (EIAR List of Competent Experts) of the EIAR. I am satisfied that the EIAR demonstrates the competence of the individuals who prepared each chapter of the EIAR.

Consultations

- 9.4.2. The application has been submitted in accordance with the requirements of the Planning & Development Act, 2000 (as amended), and the Planning & Development Regulations, 2001 (as amended), in respect of public notices. Submissions have been received from statutory bodies and third parties and are considered in this report, in advance of decision making.
- 9.4.3. 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.

Compliance

- 9.4.4. Having regard to the foregoing, I am satisfied that the information contained in the EIAR, and supplementary information provided by the developer is sufficient to comply with article 94 of the Planning & Development Regulations, 2001 (as amended).

9.5. Assessment of Likely Significant Effects

- 9.5.1. The following subsections of the report set 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 & Development Act, 2000 (as amended). 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 effects.

9.6. Population and Human Health

Issues Raised

- 9.6.1. Apart from some concern in relation to construction phase activity raised by a third party in a submission to the planning authority there are no particular concerns relating to population and human health.
- 9.6.2. Item 1 (a) of the planning authority's further information request stated that it was unclear that the cumulative assessment in EIAR chapters, the Population and Human Health chapter being specified as an example, appropriately considered two particular developments¹⁸. The further information response indicated that the two developments had been taken into consideration in the EIAR and that no change to the assessment of the individual chapters occur¹⁹. The planning authority accepted this response.

Examination, Analysis, and Evaluation of the EIAR

- 9.6.3. Chapter 3 (Population and Human Health) of the EIAR notes that human health is a very broad factor that would be highly project dependent. The chapter addresses human health in the context of other factors addressed in further detail in other chapters e.g. air quality, noise, and the risk of major accidents and disasters. It is undertaken in accordance with best practise guidelines. The existing environment is considered under the headings of employment and economic activity, social patterns

¹⁸ F22A/0033 for a distillery and light industrial and warehousing development and F22A/0480 for a warehousing development, both approximately 500 metres and further to the south of the site.

¹⁹ This should be read as given for all environmental factors in this EIA.

(the local and regional population is increasing), land-use and settlement patterns, housing (there is a significant and established housing need), and health and safety (no relevant Seveso sites).

Construction Stage Effects and Mitigation/Monitoring

- 9.6.4. Subsection 3.5 outlines the construction stage potential impacts, which can be summarised as:
- 9.6.5. Water – The provision of water infrastructure would not have a significant impact on the public supply network. Impact on water of polluted surface water runoff is addressed in chapter 6. The impact of construction in relation to water is likely to be short-term and imperceptible with respect to human health.
- 9.6.6. Noise and vibration – These issues are addressed in chapter 8. Extensive site works will generate noise.
- 9.6.7. Air quality and climate – Dust emissions could be generated from construction works affecting air quality.
- 9.6.8. Landscape and visual – There will be short-term non-significant impacts.
- 9.6.9. Economic activity – The proposed development is likely to result in short term slight positive employment impacts for up to four years and will also have indirect impacts on ancillary support services in the wider area e.g. retail services, aggregate extraction, building supply services, and professional and technical professions.
- 9.6.10. Social patterns – The proposed development is not likely to have any significant impact on social patterns. It may have some short-term negative impacts on local businesses and residents e.g. construction traffic. These are dealt with separately.
- 9.6.11. Land use and settlement patterns – Construction has the potential to impact adversely and result in the temporary degradation of the local visual environment as assessed in chapter 10. Any marginally increased population due to construction employment would be temporary and imperceptible.
- 9.6.12. Housing – There is no loss of housing stock during construction.

- 9.6.13. Health and safety – The proposed development could have a slight negative, short-term impact on the surrounding area due to traffic and associated nuisance, dust, and noise.
- 9.6.14. Construction stage mitigation is set out in the individual chapters e.g. 6 (water), 7 (air quality), 8 (climate), 9 (noise and vibration), 17 (Summary of EIA Mitigation and Monitoring Measures).

Operational Stage Effects and Mitigation/Monitoring

- 9.6.15. Section 3.5 also outlines the potential operational stage impacts, which can be summarised as:
- 9.6.16. Air quality and climate – The proposed development will not generate air emissions that would have an adverse impact on local ambient air quality or local human health.
- 9.6.17. Landscape and visual impact – The operational phase will result in landscape and visual impacts.
- 9.6.18. Economic activity – The proposal could result in a population of approx. 565 when fully built and occupied. This will enhance local spending power and assist with the delivery of a critical mass of population to support a wide range of additional local businesses, services, transport infrastructure and employment opportunities. It is considered a positive permanent slight impact. Operational phase employment would be generated in the proposed commercial units.
- 9.6.19. Social patterns – The proposed development will deliver much needed additional residential accommodation. New roads and trunk infrastructure will improve available vehicular and pedestrian access through the creation of new linkages. The proposed development will enhance the vibrancy and vitality of the area. This is an imperceptible positive long-term impact.
- 9.6.20. Land use and settlement patterns – The proposed development will accommodate an adequate provision of high-quality housing. This is an important contributor to the establishment and maintenance of good human / public health.
- 9.6.21. Housing – 197 residential units will be provided which will assist in addressing the significant shortfall of residential development, and will have a direct, positive, and significant impact on the future residents.

9.6.22. Health and safety – The operational stage will not precipitate long term negative impacts.

9.6.23. Operational stage mitigation refers to Irish Water standards and SuDS and building services plant.

Other Effects

Cumulative

9.6.24. The chapter considers that the overall cumulative impact of the proposed development will be long term and positive as residents will benefit from a high quality, visually attractive living environment, with strong links and pedestrian permeability.

Residual

9.6.25. The residual construction noise and air quality impacts will be negative, temporary to short-term and moderate to significant.

9.6.26. The predicted residual operational phase impacts on air quality and climate will be negative, imperceptible and long-term.

Do Nothing

9.6.27. This scenario would result in the subject lands remaining fallow and undeveloped and it would be an underutilisation of the site from a sustainable planning and development perspective.

Assessment: Direct, Indirect, and Cumulative Effects

9.6.28. I have examined, analysed, and evaluated chapter 3 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of population and human health. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on population and human health, as a consequence of the proposed development, have been identified.

9.6.29. While I do not consider that there would be any notable noise impacts once the proposed development is occupied, there may be construction phase noise and vibration impacts given the proximity to existing and permitted development. Chapter 9 (Noise and Vibration) of the EIAR assesses this. Potential construction phase noise

impacts could have a significant effect when works are being carried out adjacent to noise sensitive locations such as residential properties. No significant vibration effects are considered likely. Construction and operational stage mitigation measures are set out. This includes façade mitigation to the elevations of some houses along the R122 and Clonard Road to achieve internal noise criteria.

9.6.30. The baseline environment set out excludes houses that are currently occupied or under construction in Folkstown Park, so the construction phase would affect substantially more houses than is referenced in the chapter. I note that construction noise was cited as being audible in some of the survey measurement locations, which I assume relates to the partially occupied/under construction development. I concur with the chapter that significant noise impacts would likely arise during the construction phase given the number of residential properties that are present in the immediate vicinity, despite best practice mitigation such as hours of operation. However, this is a standard residential development project, typical of those carried out in the area over the last few years, and I do not consider that this is reason to recommend a refusal of permission.

9.6.31. Suitable mitigation measures have been proposed, including construction phase noise, which I consider are sufficient to ensure that there would be no undue adverse impacts on population and human health. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Population and Human Health)

9.6.32. I consider that the main significant direct, indirect, and cumulative effects on population and human health is as follows:

- significant direct positive impact for population, due to the substantive increase in the housing stock during the operational phase,
- significant, direct negative noise effects arising for population in the vicinity of site works during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures.

9.7. Biodiversity

Issues Raised

- 9.7.1. Under the heading of 'Nature Conservation', concern was expressed by the DHLGH about the extent of hedgerow and trees to be removed. This was addressed as part of the further information request and response. The Department accepted the NIS conclusion that, subject to the adoption of mitigation measures, no adverse effects to the North-west Irish Sea SPA should result from the proposed development. This is further addressed in section 10 (AA).

Examination, Analysis, and Evaluation of the EIAR

- 9.7.2. Chapter 4 (Biodiversity) of the EIAR provides for an ecological assessment of the proposed development and its potential impacts to biodiversity. It was carried out in accordance with best practice methodology. The site has been surveyed at different times each year between 2019 and 2024, given the overlap with previous phases of development.
- 9.7.3. The ecological zone of influence is established, and relevant Natura 2000 sites are identified. This is further addressed in section 10. The Bremore Stream/Clonard Brook in the southern area of the site is noted. This enters the Irish Sea a short distance downstream. It is extensively culverted downstream. The site is currently occupied by a combination of agricultural land and disturbed ground according to the EIAR. From my site inspection I agree with this, with the vast majority of the site area comprising disturbed ground. The only notable flora on site is hedgerow to the south with drainage ditch and native treeline which are of high local ecological value. Bird species were noted on site and there was some bat foraging activity, however there was nothing of particular interest noted during surveys.

Construction Stage Effects and Mitigation/Monitoring

- 9.7.4. Habitat removal – The effect of the removal of habitats is negative, imperceptible and permanent. The removal of hedgerows is a likely significant effect (though I note the further information response to Item 2 (b) where it is proposed to retain additional areas of hedgerow in the south/south west area).

- 9.7.5. Animal mortality – Mortality to animals during construction e.g. bird nests and small animals during land clearance, has a likely, negative, significant and permanent effect.
- 9.7.6. Pollution – The effect of pollution of surface water during construction is likely, negative, significant and temporary. This is particularly to the North-west Irish Sea SPA as the Bremore Stream itself is not of high fisheries or biodiversity value.
- 9.7.7. Construction phase mitigation measures refer to, inter alia, new planting/landscaping to offset habitat loss, checking trees for bats before felling/surgery, installation of bat boxes, measures to prevent pollution of surface waters, SuDS, in-stream works carried out in accordance with an approved method statement, and preparation of a CEMP.

Operation Stage Effects and Mitigation/Monitoring

- 9.7.8. Ecological corridors – Bats may be impacted through the loss of foraging territory and there will be a loss of potential breeding grounds for small mammals, birds and invertebrates. This effect is likely, negative, slight and medium-term.
- 9.7.9. Pollution of water from surface water runoff and from foul water arising – The effects of these are unlikely, negative, imperceptible and permanent.
- 9.7.10. Human activity e.g. lighting and pets – Species/habitats present are not sensitive to disturbance from noise or general human activity. Bats may be sensitive to the additional artificial lighting. It may affect light intolerant bat species during foraging and if directed at emergence points would affect all bat species, even those that will feed in illuminated areas. This effect is likely, negative, significant, and permanent.
- 9.7.11. European sites – Mitigation measures will ensure that effects to the integrity of North-west Irish Sea SPA will not arise (see section 10 of this report).
- 9.7.12. Operation phase mitigation measures are set out in section 4.8.2. The single measure relates to appropriate public lighting detail in accordance with bat conservation guidance.

Other Effects

Cumulative

- 9.7.13. A number of the identified impacts can also act cumulatively with other impacts from similar developments. These primarily arise through the urbanisation of the city's

hinterland as provided for by land use zoning. Species which are already present will not suffer significant cumulative long-term consequences.

Residual

- 9.7.14. The implementation of the mitigation measures will ensure that the predicted impacts on flora and fauna are reduced during the construction phase and no significant impact arises.
- 9.7.15. During the operational phase, with mitigation, there are expected to be no residual negative effects to biodiversity which can be considered to be significant.

Do Nothing

- 9.7.16. In this scenario the land can be expected to remain in agriculture use for the foreseeable future (though I note it is already significantly disturbed). Existing wildlife populations would remain relatively undisturbed.

Assessment: Direct, Indirect, and Cumulative Effects

- 9.7.17. I have examined, analysed, and evaluated chapter 4 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of biodiversity. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on biodiversity, as a consequence of the proposed development, have been identified.
- 9.7.18. From my site inspection I note that the three separate site parcels have been subject of extensive disturbance associated with on-going development. The only relatively undisturbed area remaining on site is the eastern part of Parcel 3. I agree with the information in the EIAR that the only notable area of flora on site is the hedgerow/treeline along the south and south western boundary. The DHLGH recommended that an additional area of vegetation in this area could have been retained. Further information was sought by the planning authority on this issue as per these, and other internal planning authority sections, comments. I consider that the further information response, which relocates the footpath area and retains additional hedgerow and trees, is appropriate and adequately addresses the Department's concern in this regard. No significant adverse impact to the hedgerows/treeline would occur in my opinion. Should permission be granted, in addition to the standard

condition requiring development to be carried out in line with the mitigation measures set out in the EIAR, a separate landscaping condition would also be appropriate in line with the planning authority Ecology Section report in relation to an updated landscape plan in this area as well as a long-term management plan.

9.7.19. Further to the above, the mitigation measures in the EIAR do not include the requirement that vegetation clearance should only take place outside the main bird breeding season i.e. from February to September inclusive, as per the DHLGH observation. I consider this can be separately attached as a condition to any grant of permission.

9.7.20. Suitable mitigation measures have been proposed which I consider are sufficient to ensure that there would be no significant adverse impacts on biodiversity. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Biodiversity)

9.7.21. I consider that the main significant direct, indirect, and cumulative effects on biodiversity are as follows:

- likely, negative, significant, and permanent impacts on high local value hedgerows and disturbance to animals during the construction phase, which would be mitigated by appropriate construction phase landscaping measures.
- likely, negative, significant, and temporary impacts from the pollution of water to the downstream special conservation interests of North-west Irish Sea special conservation area (SPA) during the construction phase, which would be mitigated by appropriate construction phase measures.
- likely, negative, significant, and permanent impacts to bats during the operational phase, which would be mitigated by appropriate lighting detail.

9.8. Land and Soil

Issues Raised

9.8.1. No particular issue was raised in relation to land and soil.

- 9.8.2. As with the population and human health factor, item 1 (a) of the planning authority's further information request stated that it was unclear that the cumulative assessment in EIAR chapters, the Land and Soils chapter also being specified as an example, appropriately considered two particular developments (as per footnote 18). The further information response indicated that the two developments had been taken into consideration in the EIAR and that no change to the assessment of the individual chapters occur. The planning authority accepted this response.

Examination, Analysis, and Evaluation of the EIAR

- 9.8.3. Chapter 5 (Land, Soils, Geology & Hydrogeology) of the EIAR assesses and evaluates the potential impacts of the proposed development on these aspects of the site and surrounding area. I address each of the four elements in this subsection. Appendix C to the EIAR is relevant to this chapter, and it includes Site Investigation Reports. The chapter was prepared in accordance with European and national guidelines. The principal attributes that were assessed and the sources of data are outlined.
- 9.8.4. The topography falls in elevation from north-west to south-east and is characterised by minor localised undulations. There is no geological heritage site in the vicinity. The primary soil type underlying the site is Irish Sea Till. The predominant subsoil type present across the site is Till derived from Lower Palaeozoic sandstones and shales. Site investigations were carried out on site in March 2024 which included soakaways, cable percussion boreholes, groundwater monitoring wells, and laboratory testing. There was no evidence of contamination noted during site investigation. Bedrock geology underlying the site belongs to the Belcamp Formation. There is a structural fault traversing the northwest section of the site which trends in a north-south orientation. The bedrock aquifer underlying the site is classified as '(LM) Locally Important Aquifer - Bedrock which is Generally Moderately Productive in local zones'. The site is underlain by the Balbriggan Groundwater Body which has a Water Framework Directive (WFD) status of 'good' (2016-2021) and is 'not at risk' of failing to achieve its objective of good water status by 2027. Geological Survey Ireland (GSI) classifies the aquifer vulnerability within the subject site as a mixture of high, moderate, and low. However, the site data recorded in relation to overburden thickness/depth to bedrock is not consistent and does not align with the GSI vulnerability classifications

zones in this area. Based on the TII methodology, the importance of the features at this proposed development site is rated as low importance.

Construction Stage Effects and Mitigation/Monitoring

- 9.8.5. Impacts on land, soil, hydrology and hydrogeology – Potential for groundwater to become contaminated with pollutants through e.g. accidental spillage or discharge, groundworks, or welfare facilities, and this could pose a significant short-term risk.
- 9.8.6. Impacts on human health and population – This could occur via a reduction in groundwater quality from unmitigated pollutants. These impacts are considered to be imperceptible and short term.
- 9.8.7. Impact on WFD status – Though there is potential for accidental discharges these would be temporary short-lived events that will not impact on the water status of the underlying bedrock aquifer long-term. The potential impact on water framework status is considered to be negative, imperceptible-not significant, and short-term.
- 9.8.8. Construction phase mitigation would include, for example, a CEMP (which is included as appendix D to the EIAR) which sets out the proposed procedures and operations to be utilised on the proposed construction site to protect soil and water quality, soil management measures, measures to control contaminated surface water runoff, appropriate sourcing of fill and aggregates, measures relating to cement and concrete works, appropriate storage and treatment of hydrocarbons, and soil sampling to confirm disposal options for excavated soils.

Operation Stage Effects and Mitigation/Monitoring

- 9.8.9. Operational stage potential impacts can be summarised as localised and minor accidental emissions to ground from a car leak/delivery truck and the increase in hardstanding area will result in a localised reduction in recharge to the aquifer. As the area of aquifer is large this reduction will have no significant change in the natural hydrogeological regime. With or without mitigation, the post-construction impact is neutral, imperceptible, and long-term.
- 9.8.10. Operational phase mitigation involves SuDS measures such as permeable paving and oil interceptors. The risk of accidental discharge has been adequately addressed through design.

Other Effects

Cumulative

- 9.8.11. There will be minimal cumulative potential for change to the land, soils, geology, and hydrogeological environment during both the construction and operational phases.

Residual

- 9.8.12. The construction phase residual impacts on land, soil, geology, and hydrogeology, human health and population, and the WFD are neutral and imperceptible. There would be no operational phase impacts of any note on these same issues.

Do Nothing

- 9.8.13. If the proposed development were not to go ahead there would be no excavation or construction or operational impact and there would, therefore, be a neutral effect.

Assessment: Direct, Indirect, and Cumulative Effects

- 9.8.14. I have examined, analysed, and evaluated chapter 5 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of land and soil. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on land and soil, as a consequence of the proposed development, have been identified. I note that the subject site is zoned for development of the type proposed and it is consistent with the existing pattern of development in the vicinity. Proposed works are standards works.
- 9.8.15. Suitable mitigation measures have been proposed which I consider are sufficient to ensure that there would be no significant adverse impacts on land and soil. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Land and Soil)

- 9.8.16. Having regard to my examination of environmental information in respect of land and soil, in particular the EIAR provided by the applicant, the planning authority's Planning Reports, and the submissions and observations received, I do not consider that there are any significant direct or indirect land and/or soil effects.

9.9. Water

Issues Raised

- 9.9.1. Under the heading of 'Nature Conservation' in the DHLGH observation, reference was made to water in relation to the potential for contaminated material to be transported downstream to the Irish Sea by way of Clonard Brook.

Examination, Analysis, and Evaluation of the EIAR

- 9.9.2. Chapter 6 (Water, Hydrology, and Hydrogeology) of the EIAR assesses and evaluates the likely significant effects on the hydrological aspects of the site and surrounding area. I address each of the chapter elements in this subsection. The chapter was prepared in accordance with national guidelines. The principal attributes that were assessed and the sources of data are outlined.
- 9.9.3. The site lies within the Nanny-Delvin Catchment and the Palmerstown_SC_010 Sub-Catchment. The current EPA watercourse mapping shows one watercourse within the proposed development site. The main hydrological features of the area are the Clonard Brook stream and the Bremore River. The former flows in an easterly/northeasterly direction through the southern portion of the site and is a tributary to the Bremore River which discharges to the Irish Sea north of the town centre. Part of the site is drained by ditches which may convey flow to the Clonard Brook stream during periods of heavy rainfall. The WFD status of both Clonard Brook and Bremore River is 'poor' and both are 'at risk' of not achieving the WFD objective of a good status by 2027. A SSFRA has concluded that the site is appropriate for the proposed residential development from a flood risk perspective. Based on TII methodology, the site is rated as 'low importance' for hydrology as the attribute has a low-quality significance or value on a local scale.

Construction Stage Effects and Mitigation/Monitoring

- 9.9.4. Impacts on surface water quality – There is potential for run-off water to become contaminated with pollutants/silt released during construction activity e.g. suspended solids, hydrocarbons, cement, wastewater. Based on the distance to Natura sites there is no likelihood of an impact on the surface water quality. The potential impacts on surface water quality are negative, not significant and temporary.

- 9.9.5. Impacts on surface water flow and quantity – Introduction of impermeable surfaces and compaction of soils could increase surface water run-off and potentially impact local drainage if not adequately attenuated. The potential impacts during the construction phase on surface water quality and flow are negative, not significant, and short term.
- 9.9.6. Impacts on human health and population – A reduction in water quality has the potential to lead to negative impacts on, for example, recreational waters or public water supply. However, there are no such areas downstream and effects are neutral, imperceptible, and short term.
- 9.9.7. Impact on WFD status – While there is a potential of localised accidental discharges these are temporary short-lived events that will not impact on the surface water status long-term. There is no potential impact on WFD status.
- 9.9.8. Construction phase mitigation measures include a CEMP, SuDS, pollution control measures relating to cement and hydrocarbons, and appropriate wastewater disposal.

Operation Stage Effects and Mitigation/Monitoring

- 9.9.9. Impacts on surface water quality – SuDS, petrol interceptor, and a minimum 10 metres riparian buffer strip (in accordance with objective IUO26 of the FDP 2023-2029) will result in no impact on the Clonard stream.
- 9.9.10. Impacts on surface water quantity and flow – Runoff will be similar to the greenfield runoff rate. With design measures in place, the impact on surface water flow and quality are neutral, imperceptible, and long-term.
- 9.9.11. Operation phase measures involves the design of SuDS into the development. The riparian buffer will improve the flow and habitat characteristics of the stream both on and off site. There will be strict separation between the foul and surface water networks.

Other Effects

Cumulative

- 9.9.12. There are no predicted cumulative impacts in relation to surface water receptors in terms of water quality and flow, as a result of the proposed development in combination with existing / proposed plans or projects

Residual

The implementation of construction phase mitigation measures will result in neutral, imperceptible, and short-term residual effects. Operation phase residual impacts are predicted as neutral and imperceptible.

Do Nothing

- 9.9.13. If the proposed development did not go ahead there would be a neutral effect on the environment. The site is zoned for residential development, and it is likely that development of a similar nature would be progressed, with similar effects.

Assessment: Direct, Indirect, and Cumulative Effects

- 9.9.14. I have examined, analysed, and evaluated chapter 6 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of water. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on water, as a consequence of the proposed development, have been identified.
- 9.9.15. Subsection 6.3.8 of the EIAR states that 'the importance of the hydrological features at this site is rated as 'Low importance' based on the assessment that the attribute has a low-quality significance or value on a local scale'. However, the watercourse on site discharges directly to the Irish Sea approximately 1.9km downstream at a point where there is a European site, North-west Irish Sea SPA. In my opinion, this hydrological link elevates the importance of the watercourse. This watercourse is the reason that Stage 2 AA was required for the proposed development. I also note that subsection 4.7.1 of the EIAR biodiversity chapter cites the potential for the contamination of this watercourse to have a likely, negative, significant and temporary effect on biodiversity during the construction phase because of the special conservation interests (SCIs) of the SPA.
- 9.9.16. Having regard to the foregoing, in my opinion, the potential for a significant effect on the watercourse as a result of construction stage pollution should be cited. For there to be potential significant effects to SCIs of a downstream SPA it follows that there is the potential for a significant effect/deterioration to the watercourse which transported the contaminated material to the European site in the first place. While upgrading the importance of this hydrological feature would likely not result in any additional or

different mitigation measures to those already included in the EIAR or NIS, in my view its designation as a feature of low importance is unjustified. This issue is further addressed in section 10 of this report.

- 9.9.17. Having regard to the previous paragraph, suitable mitigation measures have been proposed which I consider are sufficient to ensure that there would be no significant adverse impacts on water. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Water)

- 9.9.18. I consider that the main significant direct, indirect, and cumulative effect on water is as follows:

- likely, negative, significant, and temporary impacts from the pollution of water during the construction phase, which would be mitigated by appropriate construction phase measures.

9.10. Air

Issues Raised

- 9.10.1. Apart from some concern in relation to construction phase activity (dust) raised by a third party in a submission to the planning authority there are no particular concerns relating to air.

Examination, Analysis, and Evaluation of the EIAR

- 9.10.2. Chapter 7 (Air) of the EIAR assesses the potential significant effects on air quality associated with the proposed development. The chapter was prepared in accordance with European and national guidelines. The limit values for nitrogen dioxide (NO₂), PM₁₀, and PM_{2.5}²⁰ are relevant to this assessment. Neither the construction nor operation stage traffic meets the scoping criteria for an air quality assessment. The four major construction stage dust generating activities are demolition, earthworks, construction, and trackout (transport of dust and dirt from the construction site onto the public road network).

²⁰ Particles are defined by their diameter for air quality regulatory purposes. PM₁₀ has a diameter of 10 microns or less. PM_{2.5} has a diameter of 2.5 microns or less.

- 9.10.3. The baseline environment is described in terms of meteorological data (wind data from Dublin Airport) and air quality (the site is in Environmental Protection Agency (EPA) Zone 3; population greater than 15,000). Air quality in Zone C locations is generally good. The overall sensitivity of the area to dust soiling impacts is considered medium and the worst-case sensitivity of the area to human health is considered low.

Construction Stage Effects and Mitigation/Monitoring

- 9.10.4. Air quality – This impact can arise from construction dust emissions and nuisance dust. To determine the level of dust mitigation required, the potential dust emission magnitude for each dust generating activity (earthworks, construction, and trackout; no demolition works are proposed) is taken into account, in conjunction with the sensitivity of the area. Earthworks and construction would result in a medium risk of dust soiling impacts and a low risk of dust-related human health impacts. Trackout would result in a low risk of dust soiling impacts and a negligible risk of dust-related human health impacts. Dust impacts are predicted to be direct, short-term, negative and slight, which is overall not significant.
- 9.10.5. Traffic – Construction stage traffic will have direct, short-term, negative and imperceptible impact on air quality, which is overall not significant.
- 9.10.6. Mitigation measures are set out in section 7.8.1 of the EIAR under the subheadings of communications (contact details), site management (complaints register, liaison meetings with other sites), preparing and maintaining the site (screening, stockpile management), operating vehicles/machinery and sustainable travel (no idling vehicles, 15kph speed limit), operations (use of dust suppression techniques, enclosed chutes), waste management (no burning), measures specific to earthworks (revegetate earthworks, use of bowser), measures specific to construction (appropriate storage, enclosed deliveries), measures specific to trackout (covered vehicles, wheelwash), and monitoring (daily inspections). These are only some of the mitigation measures set out.

Operation Stage Effects and Mitigation/Monitoring

- 9.10.7. The proposed development will not significantly increase traffic and there are no proposed changes to traffic speeds or road alignment. A detailed air quality

assessment was scoped out as per TII criteria. Operational stage effects on air quality are predicted to be direct, long-term, negative, and imperceptible.

9.10.8. No mitigation is required for the operational phase of the development.

Other Effects

Cumulative

9.10.9. Should the construction phase coincide with the construction phase of any other development within 500 metres then there is the potential for cumulative construction dust impacts. The adjacent permitted LRD is referenced in this regard.

9.10.10. The effect on air quality during the operational phase, including the cumulative effect, will be direct, long-term, negative, and imperceptible, which is overall not significant.

Residual

9.10.11. The residual construction phase effects are direct, short-term, negative and not significant. The operational phase effect on air quality and human health as a result of increased traffic is direct, long-term, negative and imperceptible.

Do Nothing

9.10.12. The proposed development will not be constructed and effects of fugitive dust and particulate matter emissions will not occur.

Assessment: Direct, Indirect, and Cumulative Effects

9.10.13. I have examined, analysed, and evaluated chapter 7 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of air. I am satisfied that the key impacts in respect of likely effects on air, as a consequence of the proposed development, have been identified.

9.10.14. I do not consider that the EIAR chapter has adequately presented the baseline in terms of the sensitivity of the receiving environment. Figure 7.2 (Sensitive Receptors within 20m, 50m and 100m of Site Boundary) has ignored the entirety of the adjacent Folkstown Park development, despite the fact that the EIAR is dated July 2024, and the development is currently widely occupied. I consider this to be a deficiency in terms of completeness of the information presented. The area is a high sensitivity receptor because of the residential use. It is in the number of properties within 20 metres, 50

metres, and 100 metres of the site boundary that is significantly inaccurate in the chapter. The applicant has cited figures of 3, 33, and 80 respectively. I consider that the actual figures are approximately 59, 146, and 240, when Folkstown Park is included. Therefore, having regard to table 7.7 (Sensitivity of the Area to Dust Soiling Effects on People and Property), I consider that the overall sensitivity of the area to dust soiling impacts is high, and not medium as per the EIAR. The sensitivity of the area to dust related human health impacts remains low as per the EIAR.

9.10.15. However, notwithstanding the greater number of residential units within 20 metres, 50 metres, and 100 metres of the proposed development, when assessed against the matrices in the chapter, there is no change to the impact of construction phase earthworks, construction, or trackout activities. Therefore, the omission of these units from the EIAR chapter has no material impact on the assessment of the construction phase on air quality/dust in the context of properties in the vicinity.

9.10.16. Suitable mitigation measures have been proposed which I consider are sufficient to ensure that there would be no significant adverse impacts on air. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Air)

9.10.17. Having regard to my examination of environmental information in respect of air, in particular the EIAR provided by the applicant, the planning authority's Planning Reports, and the submissions and observations received, I do not consider that there are any significant direct or indirect air effects.

9.11. Climate

Issues Raised

9.11.1. There were no issues raised in this regard.

Examination, Analysis, and Evaluation of the EIAR

9.11.2. Chapter 8 (Climate) of the EIAR assesses the potential significant effects on climate. The climate assessment is divided into two distinct sections – a greenhouse gas assessment (GHGA) and a climate change risk assessment (CCRA). The GHGA quantifies the GHG emissions from a project over its lifetime while the CCRA identifies

the impact of a changing climate on a project and receiving environment. The legislation, policy, and guidance taken into consideration is set out. The current and future GHGA and CCRA baseline environments are also set out in terms of GHG emissions and weather/climate.

Construction Stage Effects and Mitigation/Monitoring

Construction stage GHGA potential impacts

- 9.11.3. Embodied carbon emitted during the manufacture, transport, and construction of building materials, together with site activities, is the primary issue. The total construction phase embodied carbon (including maintenance and replacement of materials over the development lifetime) will be 16,907 tonnes CO₂e (carbon dioxide equivalent). The estimated total GHG emissions, when annualised over the 50-year proposed development lifespan, are equivalent to 0.0006 of Ireland's total GHG emissions in 2022 and 0.001 of Ireland's non-Emission Trading Scheme 2030 emissions target. This equates to a significance of effect of GHG emissions during the construction phase as direct, long-term, negative and slight.

Construction stage CCRA potential impacts

- 9.11.4. Consideration has been given to the proposed development's vulnerability to climate change hazards such as flood risk, reduced temperatures, and major storm damage. There is no significant risk to the proposed development as a result of climate change.
- 9.11.5. Construction phase mitigation includes best practise such as reuse of materials, no idling vehicles, local materials where possible, minimising of waste, and use of timber.

Operation Stage Effects and Mitigation/Monitoring

Operation stage GHGA potential impacts

- 9.11.6. Ongoing maintenance has been accounted for in the construction stage. Operational stage GHG relates to operational energy use. The development has been designed to reduce the impact to climate and to ensure the operational phase emissions are minimised. This equates to a significance of effect of GHG emissions during the operation phase as direct, long-term, negative and slight.

Operation stage CCRA potential impacts

9.11.7. All vulnerabilities to climate change hazards, for example flooding, extreme temperatures, extreme wind, and wildfire, are classified as low. There is no significant risk to the proposed development as a result of climate change.

9.11.8. In terms of operation stage mitigation, the development will be a Nearly Zero Energy Building (NZEB) with an aim to achieve an A2 Building Energy Rating, and a number of relevant development characteristics are identified. In addition, adequate attenuation and drainage have been incorporated to avoid potential flooding impacts.

Other Effects

Cumulative

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

Residual

9.11.10. The proposed development will result in some impacts to climate through the release of GHGs. The proposed development has proposed some best practice mitigation measures and is committing to reducing climate impacts where feasible. There are no significant residual climate impacts.

Do Nothing

9.11.11. The climate baseline will continue to develop in line with the identified trends.

Assessment: Direct, Indirect, and Cumulative Effects

9.11.12. I have examined, analysed, and evaluated chapter 8 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of climate. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on climate, as a consequence of the proposed development, have been identified. I note that the subject site is zoned for development of the type proposed and it is consistent with the existing pattern of development in the vicinity. Proposed works are standards works.

- 9.11.13. Suitable mitigation measures have been proposed which I consider are sufficient to ensure that there would be no significant adverse impacts on climate. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Climate)

- 9.11.14. Having regard to my examination of environmental information in respect of climate, in particular the EIAR provided by the applicant, the planning authority's Planning Reports, and the submissions and observations received, I do not consider that there are any significant direct or indirect land and/or climate effects.

9.12. Material Assets

- 9.12.1. Materials assets comprise three separate chapters in the EIAR. They are assessed below under the different chapter headings i.e. Traffic, Services, Infrastructure, and Utilities, and Waste.

Traffic

Issues Raised

- 9.12.2. Car parking, additional traffic on the Boulevard, and the absence of development at the Boulevard/R122 junction to date are transportation concerns outlined in submissions to the planning authority.

Examination, Analysis, and Evaluation of the EIAR

- 9.12.3. Chapter 11 (Material Assets - Traffic) of the EIAR assesses the likely impact of the proposed development in terms of vehicular, pedestrian and cycle access. The chapter was informed by reports prepared for earlier phases of the Folkstown Park development and the adjacent permitted LRD. A site assessment was undertaken on Wednesday 28th February 2024 coinciding with the typical PM traffic peak.
- 9.12.4. In setting out the baseline environment the applicant outlines the relevant planning history, describes the surrounding road network and key junctions, identifies future upgrades (C-Ring and Boulevard/R122 junction), notes existing traffic and accessibility, describes the public transport infrastructure, interrogates road safety data, and identifies existing shared mobility services. The proposed site characteristics

are set out relating to servicing, pedestrian and cycle facilities, parking arrangements, and the proposed junction upgrade.

Construction Stage Effects and Mitigation/Monitoring

- 9.12.5. Key construction traffic related attributes are outlined such as working hours, staff numbers, and traffic movements. The proposed development's construction phase traffic impact would have similar intensity as phase 3. No significant effects should occur.
- 9.12.6. Construction phase mitigation includes identified haul routes, on-site staff parking, working hours, appropriate signage, local sourcing of materials where feasible, preparation of a Construction Management Plan for FCC approval, and appointment of a construction traffic manager. Monitoring of parking and routing practices and road conditions will be carried out.

Operation Stage Effects and Mitigation/Monitoring

- 9.12.7. The overall development (existing Folkstown Park plus the proposed development) would generate 2,475 all-day two-way trips. The proposed development, plus Flemington Lane LRD, is expected to only result in a significant increase in traffic volumes on the Boulevard Road arm of the Boulevard/R122 junction of 10.2%-10.6% and they will only increase the overall flows on the R122 west and east arms by 2.1%-2.5% and 0.9%-1.1%, respectively because of the higher traffic numbers on the regional road. Overall, the expected impact of the proposed development, relative to what is currently permitted, is deemed immaterial.
- 9.12.8. For operational stage mitigation, a Framework Mobility Management Plan (MMP) has been prepared to encourage sustainable transport use and help reduce potential traffic impacts.

Other Effects

Cumulative

- 9.12.9. A number of committed and proposed developments have been identified, including Flemington Lane LRD and the two developments referenced in Item 1 (a) of the planning authority's further information request.

- 9.12.10. During the construction phase the Flemington Lane construction traffic volumes are expected to be larger than the proposed development. Consecutive construction of both schemes could generate in the range of 400 one-way vehicular trips per day during the most intensive construction periods, most or all on the R122. Considering that the R122 is expected to carry approximately 17,000 vehicles per day without the proposed development or the permitted LRD development, the development traffic will increase the baseline traffic volumes by approximately 2.4% which not deemed material, and as such no significant cumulative effects during the construction phase are expected.
- 9.12.11. During the operational phase, the proposed development is not likely to result in a substantially more significant impact on the adjacent road network.

Residual

- 9.12.12. The residual impact was not contained in the original EIAR and this formed Item 1 (b) of the planning authority's further information request. In response, the applicant stated that the residual effect of the number of HGV movements during the construction phase would be negative and not significant while the additional vehicles during the operational phase would also be negative and not significant.

Assessment: Direct, Indirect, and Cumulative Effects

- 9.12.13. I have examined, analysed, and evaluated chapter 11 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of traffic issues. I am satisfied that the key impacts in respect of likely traffic effects, as a consequence of the proposed development, have been identified. I note that the subject site is appropriately zoned for development of the type proposed and the planning authority did not express any concern in relation to construction phase traffic.
- 9.12.14. A similar Boulevard Road/R122 junction upgrade was also proposed as part of the Flemington Lane LRD. I consider it appropriate that, should permission be granted, a similar condition be attached in the interest of consistency, and that it be required the junction upgrade be delivered in the first phase of development.
- 9.12.15. Figure 11.15 of the EIAR shows haul routes into Parcels 2 and 3 via the R122 and L1130. Figure 3 of the CEMP shows a single access into Parcel 3 from the L1130. Therefore, there is a slight discrepancy in haul routes. The Transportation Planning

Section of the planning authority does not indicate any concern in relation to the use of the L1130 for construction traffic but recommends that a final Construction Management Plan includes haul routes.

- 9.12.16. Suitable mitigation measures have been proposed which I consider are sufficient to ensure that there would be no significant adverse traffic impacts. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Material Assets - Traffic)

- 9.12.17. Having regard to my examination of environmental information in respect of traffic, in particular the EIAR provided by the applicant, the planning authority's Planning Reports, and the submissions and observations received, I do not consider that there are any significant direct or indirect traffic effects.

Services, Infrastructure, and Utilities

Issues Raised

- 9.12.18. Concern was expressed in relation to the lack of existing infrastructure/the C-Ring road and the capacity of the foul system in third party submissions received by the planning authority.

Examination, Analysis, and Evaluation of the EIAR

- 9.12.19. Chapter 12 (Material Assets – Services, Infrastructure, and Utilities) of the EIAR comprises an assessment of the likely impact of the proposed development on existing surface water, water supply, foul drainage, and utility services in the vicinity. The chapter is in accordance with EPA guidelines and advice notes. Sources of information are outlined, and documents used in the infrastructure design are set out.
- 9.12.20. The existing baseline environment is briefly described under subheadings of surface water drainage, foul water design, watermain design, natural gas, electricity supply, communications, and waste. The characteristics of the proposed development are set out in relation to the surface water, foul, and watermain networks, and the road network and electrical supply are also briefly described.

Construction Stage Effects and Mitigation/Monitoring

- 9.12.21. Surface and foul water – Connection to the surface water drainage ditch and the existing foul network will be carried out in a day and any impacts will be neutral, imperceptible and brief. Contamination of surface water runoff due to construction activity may occur. The construction phase will likely have a neutral, short-term, moderate impact on surface and foul water.
- 9.12.22. Watermain – There is a risk of contamination to the existing water supply during the construction phase when the development is being connected to the water supply. There will be a minor water demand for the site works, compound and offices. The construction phase will likely have a neutral, short-term, moderate impact.
- 9.12.23. Electrical supply and communications – Temporary connection to the local electricity supply network will be required. The construction phase will likely have a neutral, short-term, moderate impact.
- 9.12.24. Waste management – The construction phase has the potential to impact on the local municipal waste disposal network, but this will be short term and moderate.
- 9.12.25. In terms of mitigation, in addition to relevant measures contained within other chapters the chapter cites compliance with the provisions of both the RWMP and CEMP, water metering, and construction in accordance with relevant codes of practice. Surface water will be monitored during the construction phase.

Operation Stage Effects and Mitigation/Monitoring

- 9.12.26. Without the consideration of mitigation measures the operational phase will likely have a neutral, permanent, slight impact on surface water, and foul water, and the water supply. Impact on electrical supply and communications will likely have a neutral, permeant, imperceptible impact. Waste impact is likely to be negligible.
- 9.12.27. In terms of mitigation, in addition to relevant measures contained within other chapters the chapter cites checking pipes for defects, water conservation measures, hydrobrakes, and pressure testing of watermains. Water usage will be monitored by a bulk water meter.

Other Effects

Cumulative

- 9.12.28. The cumulative effects on material assets have been assessed taking into account other developments in the surrounding area, including the adjacent Flemington Lane LRD. The cumulative effects on the foul, surface water, watermain and waste management systems are anticipated to be short term, neutral, and imperceptible.

Residual

- 9.12.29. Provided mitigation measures are adhered to the construction phase will likely have a neutral, short-term, moderate impact. The operational phase will likely have a neutral, permanent, imperceptible impact.

Assessment: Direct, Indirect, and Cumulative Effects

- 9.12.30. I have examined, analysed, and evaluated chapter 12 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of services, infrastructure, and utilities. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on services, infrastructure, and utilities, as a consequence of the proposed development, have been identified.
- 9.12.31. Two relevant issues were raised in the submissions to the planning authority. The C-Ring road has been addressed in detail in subsection 8.4 of this report. The proposed development is not dependant on this road. In relation to the capacity of the wastewater infrastructure, the Uisce Éireann observation on file indicates no concern.
- 9.12.32. I note that in section 12.4.1.2 of the chapter the potential for contamination of surface water runoff is described as likely having a neutral, short-term, moderate impact. As set out in the biodiversity and water chapters I consider that contamination of surface water would have a significant impact.
- 9.12.33. Notwithstanding the preceding paragraph, I consider that, in conjunction with measures set out elsewhere in the EIAR, suitable mitigation measures have been proposed which are sufficient to ensure that there would be no significant adverse impacts on services, infrastructure, and utilities. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Material Assets – Services, Infrastructure, and Utilities)

- 9.12.34. Having regard to my examination of environmental information in respect of services, infrastructure, and utilities, in particular the EIAR provided by the applicant, the planning authority's Planning Reports, and the submissions and observations received, I do not consider that there are any significant direct or indirect services, infrastructure, and utilities effects.

Waste

Issues Raised

- 9.12.35. There were no issues raised in this regard.

Examination, Analysis, and Evaluation of the EIAR

- 9.12.36. Chapter 13 (Material Assets – Waste) of the EIAR evaluates the likely impacts and issues which the proposed development may have on waste management during the construction and operational phases of the proposed development. Both an RWMP and an OWMP have been submitted in appendix E to the EIAR. An overview of relevant legislation, guidance, and policy is provided. The assessment takes into account the methodology specified in relevant guidance documents along with an extensive document review.
- 9.12.37. There are a number of licensed waste facilities located in the region for management of waste from the construction industry as well as municipal sources. However, these sites may not be available when required or may be limited by the waste contractor selected. There is potential for more suitably placed waste facilities or recovery facilities to become operational in the future. The ultimate selection of waste contractors and waste facilities would be subject to appropriate selection criteria. Characteristics of the construction and operational phases are outlined. Waste will be produced from surplus materials, excavated soils (25,939m²), and from workers. 43.52m³ of waste is expected to be generated on a weekly basis in the operational phase.

Construction Stage Effects and Mitigation/Monitoring

- 9.12.38. Waste materials – The development will generate non-hazardous and hazardous waste materials during site excavation and construction which will require temporary storage. If not managed and stored correctly, it is likely to lead to litter or pollution and the possible presence of vermin. The effect is likely to be indirect, short-term, significant, and negative.
- 9.12.39. Contractors – The use of non-permitted waste contractors or unauthorised waste facilities could give rise to inappropriate management of waste. In the absence of mitigation, the effect on the local and regional environment is likely to be indirect, long-term, significant, and negative.
- 9.12.40. Soils – There is a quantity of soil that will need to be excavated to facilitate the proposed development. Material that cannot be reused onsite will need to be removed off-site. Correct classification and segregation is required to ensure that any potentially contaminated materials are appropriately handled. In the absence of mitigation, the effect on the local and regional environment is likely to be indirect, short-term, significant, and negative.
- 9.12.41. Mitigation measures include adherence to the RWMP, correct classification and segregation of excavated soils, segregation of wastes, re-use of materials where possible, appropriate storage of materials, and appointment of a Resource Manager.

Operation Stage Effects and Mitigation/Monitoring

- 9.12.42. Waste management – The potential impacts on the environment of inappropriate waste management would be (i) a diversion from the priorities of the waste hierarchy, (ii) litter or pollution issues and the possible presence of vermin, and (iii) the use of non-permitted waste contractors or unauthorised facilities could give result in negative environmental impacts or pollution. The effect on the environment is likely to be long-term, significant, and negative.
- 9.12.43. Mitigation measures include adherence to the OWMP, although I note that operational stage waste management will primarily be the responsibility of residents.

Other Effects

Cumulative

- 9.12.44. Existing and permitted development, including Flemington Lane LRD, is noted. The cumulative construction phase effect will be short-term, not significant and neutral. The cumulative operational phase effect will be long-term, imperceptible and neutral.

Residual

- 9.12.45. The predicted residual impact of both phases on the environment will be imperceptible and neutral.

Do Nothing

- 9.12.46. If the proposed development were not to go ahead there would be a neutral effect on the environment in terms of waste. The site is zoned, and it is likely that a development of a similar nature would be progressed with likely similar effects.

Assessment: Direct, Indirect, and Cumulative Effects

- 9.12.47. I have examined, analysed, and evaluated chapter 13 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of waste. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely waste effects, as a consequence of the proposed development, have been identified.
- 9.12.48. Suitable mitigation measures have been proposed which I consider are sufficient to ensure that there would be no significant adverse waste impacts. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Material Assets - Waste)

- 9.12.49. I consider that the main significant direct, indirect, and cumulative effects on waste is as follows:
- significant, indirect, negative environmental effects from inappropriate storage/management and/or inappropriate classification/segregation and/or inappropriate disposal/recycling/recovery of waste materials that may be generated during the construction phase, which would be mitigated by appropriate construction phase measures set out in a RWMP.

- significant, negative, long-term effects on the environment from improper on-site storage/management of waste and off-site disposal, which would be mitigated by appropriate operational phase waste management.

9.13. Cultural Heritage

Issues Raised

9.13.1. There were no issues raised in this regard.

Examination, Analysis, and Evaluation of the EIAR

9.13.2. Chapter 14 (Architectural, Archaeological, and Cultural Heritage) of the EIAR identifies the study area as 500 metres from the subject site. The assessment has been carried out in four phases: a desktop survey, a field inspection, and geophysical survey and archaeological test trenching carried out in the southern area within lands not previously subject to archaeological investigation. A Geophysical Survey Report dated 29th January 2024 and an Archaeological Assessment dated July 2024 are attached as appendix A to the EIAR.

9.13.3. In terms of the receiving environment/baseline, an historical background is provided. There are no recorded monuments in the development area. The closest recorded monument comprises the site of a pit (RMP DU001-029) recorded approximately 23 metres southeast of Parcel 1. There are no protected structures or structures on the National Inventory of Architectural Heritage within 500 metres. Previous archaeological fieldwork is summarised, including some on the subject site carried out as part of previous applications/permissions. Nothing of archaeological significance was identified. A cartographic analysis is set out. The townland boundary between Clonard or Folkstown Great and Clogheder traverses the southern portion of the site. It is largely intact and partially follows the trajectory of the watercourse.

9.13.4. The January 2024 geophysical survey identified nine anomalies. Archaeological test trenching was carried out within the previously unassessed southern portion of the proposed development area. The trenches targeted the geophysical anomalies and open green space. Testing revealed four areas of archaeological significance which comprised evidence for probable Bronze Age burnt mound activity. This is a typical

landscape context for this site type, which is the most commonly identified archaeological site within the terrestrial record.

Construction Stage Effects and Mitigation/Monitoring

- 9.13.5. Archaeology – Four areas of archaeological significance were identified which all relate to probable burnt mound activity. It is not possible to preserve the archaeological remains in-situ. Ground disturbances will result in a direct, negative, and permanent impact on these. The significance of effect is predicted to be very significant.
- 9.13.6. Works associated with watercourse crossings and other areas of the proposed development have the potential to result in direct, negative and permanent impacts on previously unrecorded archaeology. Effects may range from moderate to very significant, depending on the nature, extent and significance of any remains that may be present.
- 9.13.7. Architectural and cultural heritage – No other potential impacts are predicted.
- 9.13.8. In terms of mitigation, due to the requirements of the proposed development preservation in-situ is not possible. Therefore, the four archaeological areas will be subject to preservation by record (archaeological excavation). An archaeological wade survey will be carried out on sections of the Clonard Stream which will be impacted by road and footpath crossings. Dependant on the results, further mitigation may be required, such as preservation by record, or in-situ and/or archaeological monitoring. All topsoil stripping will be monitored by a suitably qualified archaeologist.

Operation Stage Effects and Mitigation/Monitoring

- 9.13.9. No impacts are predicted and therefore no mitigation is required.

Other Effects

Cumulative

- 9.13.10. No cumulative impacts are predicted.

Residual

- 9.13.11. Following the implementation of construction stage mitigation measures, no significant impacts are predicted upon the archaeological resource. There are no impacts predicted in the operational stage.

Do-Nothing

9.13.12. In this scenario, there would be no negative impact on the archaeological, architectural, or cultural heritage resource, or cumulatively with other development.

Assessment: Direct, Indirect, and Cumulative Effects

9.13.13. I have examined, analysed, and evaluated chapter 14 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of architectural, archaeological, and cultural heritage. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on architectural, archaeological, and cultural heritage, as a consequence of the proposed development, have been identified.

9.13.14. Suitable mitigation measures have been proposed which I consider are sufficient to ensure that there would be no significant adverse impacts on architectural, archaeological and cultural heritage. I am also satisfied that there would be no significant cumulative adverse impacts.

Conclusion: Direct, Indirect, and Cumulative Effects (Architectural, Archaeological, and Cultural Heritage)

9.13.15. I consider that the main significant direct, indirect, and cumulative effects on architectural, archaeological, and cultural heritage are as follows:

- ground disturbances associated with the construction phase will result in a direct, negative, permanent, and very significant impact on the four areas of archaeological significance identified during archaeological testing, which can be mitigated by appropriate preservation by record (archaeological excavation) carried out prior to the commencement of development on site.
- ground disturbances in the construction phase have the potential to result in significant, direct, negative, and permanent impacts on unrecorded archaeology, which can be mitigated by monitoring of ground works by a suitably qualified archaeologist who would consult with the DHLGH should archaeological material be uncovered.

9.14. Landscape

Issues Raised

9.14.1. There were no issues raised in this regard.

Examination, Analysis, and Evaluation of the EIAR

9.14.2. Chapter 10 (Landscape and Visual Impact Assessment) (LVIA) of the EIAR assesses the potential landscape/townscape and visual impacts. Appendix G to the EIAR comprises proposed verified photomontages dated July 2024²¹. The LVIA was prepared with reference to specified guidelines.

9.14.3. The location of the site in an area undergoing transformational landscape change, from its previously rural/agricultural condition to an urban landscape/townscape, is noted. This process has been plan-led. The zoning of the area and the grants of planning permission have implications for assessing the landscape/townscape and visual impacts. These indicate that the existing landscape is transitional and point towards the 'future townscape', which is the baseline scenario against which the proposed development should be assessed. The principle of the site's development for residential use, and the related landscape and visual change, has been deemed acceptable. The pertinent questions are whether the proposed development would comply with the related policies and objectives of the FDP 2023-2029, would avoid significant negative effects on sensitive receptors, and would integrate with existing and permitted developments. The assessment focusses on the site and immediate receiving environment as the visibility of the development from the wider environs could not constitute significant impact, given the site lies within the urban footprint, is zoned for development, and is adjacent to other similar existing and permitted development.

Construction Stage Effects and Mitigation/Monitoring

Visual Impact

9.14.4. Eight viewpoints were selected for visual impact assessment. Until completion the visual impact would be negative but temporary.

²¹ These were revised by proposed verified photomontages dated October 2024 as part of the further information response.

Landscape Impact

- 9.14.5. The landscape sensitivity of the receiving environment can be classified medium to the type of development proposed. The magnitude of landscape change in the construction phase would be low-medium. Measuring the magnitude of change against the landscape sensitivity, the significance of the landscape impact during construction would be moderate negative in the immediate environs, reducing with distance from the site.

Mitigation

- 9.14.6. The negative landscape and visual impacts of construction are an unavoidable consequence of development and there is limited potential for mitigation. No landscape or visual-specific mitigation is recommended other than standard best practice construction site management. The retention of certain trees and hedgerows is important, and any loss would constitute a negative landscape impact.

Operation Stage Effects and Mitigation/Monitoring

Visual Impact

- 9.14.7. The existing views are described for all eight viewpoints, including an assessment of the viewpoint sensitivity which range from low-medium to medium. There is also an assessment of each proposed view with magnitudes of change identified for each ranging from medium to medium-high. An impact significance is also provided, and these range from moderate neutral to significant positive. Cumulative impact is considered where applicable with cumulative magnitudes of change ranging from medium to high. The cumulative significance of impacts range from moderate neutral to significant positive.

Landscape Impact

- 9.14.8. The development would contribute to an ongoing, large scale landscape change, as opposed to causing it and, therefore, the magnitude of landscape change can be classified medium. Measuring the magnitude of change against the landscape sensitivity, the significance of the landscape impact during operation would be moderate positive.

Mitigation

- 9.14.9. Potential landscape effects have been classified moderate positive so no mitigation is required or recommended.

Other Effects

Cumulative

- 9.14.10. As above, for visual impact.
- 9.14.11. For landscape, the development would integrate seamlessly with neighbouring developments and the cumulative landscape impact would be significant positive.

Residual

- 9.14.12. Not relevant given the absence of mitigation.

Do-Nothing

- 9.14.13. The FDP 2023-2029 residential land use objective would be unrealised. The landscape would continue to appear transitional/incomplete in places and the urban edge would continue to be poorly defined.

Assessment: Direct, Indirect, and Cumulative Effects

- 9.14.14. I have examined, analysed, and evaluated chapter 10 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of landscape and visual impact. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely landscape and visual effects, as a consequence of the proposed development, have been identified.
- 9.14.15. I note that the chapter does not include any viewpoints from the under construction/partially occupied Folkstown Park development, which would have been of interest. However, I do not consider that this is a significant deficiency and, that apart, I consider that the eight viewpoints selected are appropriate. I also note that some of the viewpoints assessed have subsequently been altered by further changes such as additional retention of trees and hedgerows along the R122 and L1130 and the reduction in two three-storey houses to two-storeys along the L1130. Notwithstanding, I do not consider that these would alter the assessments provided.

9.14.16. I concur with the conclusions reached in the chapter. The three separate parcels of land subject of the application are in varying conditions, and the original agricultural use is effectively no longer visible on site. The sites are of no visual benefit and their development in a manner consistent with the existing and permitted pattern of development in the area would consolidate the built environment and provide an appropriate urban edge to the town.

Conclusion: Direct, Indirect, and Cumulative Effects (Landscape and Visual Impact)

9.14.17. I consider that the main significant direct, indirect, and cumulative landscape and visual effect is as follows:

- significant beneficial visual impact from a number of locations in the immediate environs in the operational phase as it would improve the landscape/townscape.

9.15. Interactions Between the Foregoing

9.15.1. Though also referenced in the individual technical chapters, chapter 16 (Interactions of the Foregoing) of the EIAR highlights the significant interactions between environmental factors. Table 16.1 outlines a matrix showing the factors that interact with each other and subsection 16.2 describes these.

9.15.2. I have considered the interrelationships between the various environmental factors and whether these may as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered both the embedded design and the mitigation measures to be put in place, I am satisfied that no residual risk of significant negative interaction between any of the environmental factors would arise and no further mitigation measures to those already provided for in the EIAR, or as conditions of the permission, would arise. I am satisfied that in general the various interactions were accurately described in the EIAR.

9.16. Vulnerability to Risks of Major Accidents and/or Disasters

9.16.1. The EIAR contains a specific chapter in relation to this (Chapter 15 – Risk Management for Major Accidents and/or Disasters). Given the nature and extent of

the proposed development i.e. a standard residential development, and the location on an edge of town area in north Co. Dublin with similar existing and permitted development in the vicinity, no significant issue in this regard would be anticipated.

9.16.2. The EIAR states that, after mitigation, ‘there are no identified incidents or examples of major accidents and or natural disasters that present a sufficient combination of risk and consequence that would lead to significant residual impacts or environmental effects’.

9.17. Reasoned Conclusion

9.17.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, and the submissions from the planning authority, prescribed bodies, and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment, with the implementation of the proposed mitigation measures, are as follows:

- significant direct positive impact for population, due to the substantive increase in the housing stock during the operational phase,
- significant, direct negative noise effects arising for population in the vicinity of site works during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures, and,
- significant beneficial visual impact from a number of locations in the immediate environs in the operational phase as it would improve the landscape/townscape.

9.17.2. Notwithstanding the conclusion reached in respect of the inability of the proposed measures to fully mitigate the construction phase noise impact, it is considered that the environmental effects would not justify a refusal of planning permission having regard to overall benefits of the proposed development.

10.0 Appropriate Assessment (AA)

10.1. Stage 1 – Screening Determination for Appropriate Assessment (AA)

- 10.1.1. Having carried out AA screening (stage 1) of the project (included in appendix 1 to this report), it has been determined that the project may have likely significant effects on North-west Irish Sea SPA (site code 004236), in view of the site's conservation objectives.
- 10.1.2. AA (stage 2) is therefore required of the implications of the project on the SCIs of the SPA in light of its conservation objectives.
- 10.1.3. The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the dilution strength of the Irish Sea.
- 10.1.4. No measures intended to avoid or reduce harmful effects on European sites have been taken into account in reaching this conclusion.

10.2. Stage 2 – Appropriate Assessment (AA)

- 10.2.1. In carrying out AA (stage 2) of this proposed residential development project (included in appendix 2 to this report), I have assessed the implications of the project on North-west Irish Sea SPA in view of the site's conservation objectives. I have had regard to the NIS and all other relevant documentation on the case file. I consider that the information included in the case file is adequate to allow the carrying out of AA.
- 10.2.2. Following AA (stage 2) it has been concluded that the project, individually or in-combination with other plans or projects, would not adversely affect the integrity of North-west Irish Sea SPA in view of the site's conservation objectives.
- 10.2.3. This conclusion is based on:
 - a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the conservation objectives of North-west Irish Sea SPA,
 - an assessment of in-combination effects, and,

- no reasonable scientific doubt as to the absence of adverse effects on the integrity of North-west Irish Sea SPA.

11.0 Recommendation

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

12.0 Reasons and Considerations

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

- (a) the nature, scale, and extent of the proposed development and the pattern of existing and permitted development in the area,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the provisions of the Climate Action Plan (2024),
- (d) the provisions of the National Biodiversity Action Plan 2023-2030, which have been considered,
- (e) the provisions of the Sustainable Residential and Compact Settlement Guidelines for Planning Authorities (January 2024),
- (f) the provisions of the Urban Development and Building Height Guidelines for Planning Authorities (December 2018),
- (g) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments (July 2023),
- (h) the provisions of the Design Manual for Urban Roads and Streets (2019),
- (i) the provisions of the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031,

- (j) the provisions of the Fingal Development Plan 2023-2029 including the 'RA – Residential Area' zoning for the site,
- (k) the documentation submitted with the planning application, such as the Environmental Impact Assessment Report and Natura Impact Statement, and the grounds of appeal,
- (l) the submissions and observations received on file including from the planning authority, prescribed bodies, and third parties,
- (m) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites,
- (n) the planning history of the site and the vicinity of the site, and,
- (o) the report of the Planning Inspector.

Appropriate Assessment Screening

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

Appropriate Assessment

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

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,

- ii. the mitigation measures which are included as part of the current proposal, and,
- iii. the conservation objectives for the European site.

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

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

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development taking account of:

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

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

Reasoned conclusion on the significant effects

The Board considered that the main significant direct and indirect effects of the proposed development on the environment, with the implementation of the proposed migration measures, are as follows:

- significant direct positive impact for population, due to the substantive increase in the housing stock during the operational phase,
- significant, direct negative noise effects arising for population in the vicinity of site works during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures, and,
- significant beneficial visual impact from a number of locations in the immediate environs in the operational phase as it would improve the landscape/townscape.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. Overall the Board is satisfied that the proposed development would not have any unacceptable effects on the environment.

Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the development objectives and other provisions of the Fingal Development Plan 2023-2029, would make efficient use of an appropriately zoned site on the edge of Balbriggan, would positively contribute to an increase in housing stock and both physical and recreational infrastructure in the area, would be acceptable in terms of urban design, layout and building height, would be acceptable in terms of pedestrian and traffic safety, and would provide an

acceptable form of residential amenity for future occupants. The proposed development would not preclude the delivery of the C-Ring Road, or a potential upgrade of the L1130/L5450 and R122 crossroads junction, and would not seriously injure the residential or visual amenities or unduly increase traffic volumes in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on 9th day of October 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The 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 development shall be carried out in accordance with the plans and particulars lodged with the planning application, as amended by the further plans and

particulars received by the planning authority on the 9th day of October 2024, except as follows:

- (a) The F3 house types shall be as per drawing no. A507-DCA-XX-XX-DR-A-112 received by the Board on the 11th day of December 2024. A first floor side elevation window to Bedroom 1 shall be added to House Nos. 11, 12, 38, 41, 71, 92, 127, 128, 152-156, 162-164, 171 and 177.
- (b) The 18 no. G house types addressing the Boulevard Road and the proposed C-Ring Road shall be replaced by the H type houses (drawing nos. A507-DCA-XX-XX-DR-A-143/144/145) received by the Board on the 11th day of December 2024.
- (c) The four duplex blocks addressing the R122 shall be as per drawing no. A507-DCA-XX-XX-DR-A-137 received by the Board on the 11th day of December 2024.

Reason: To clarify the plans and particulars for which permission is granted.

- 5. (a) Prior to commencement of development the applicant shall transfer the area of land under its ownership along the L1130 to the planning authority, as shown on the Land Ceding Map (drawing no. A507-DCA-XX-XX-DR-A-029) received by the planning authority on the 9th day of October 2024.
- (b) Prior to commencement of development the developer shall submit, for the written approval of the local authority, the detailed design and specification of the signalised junction of Boulevard Road and R122. This junction upgrade shall be delivered in its entirety and be operational prior to the occupation of any residential units hereby permitted.

Reason: In the interest of pedestrian, cyclist, and traffic safety and the proper planning and sustainable development of the area and to comply with the provisions of the planning application.

- 6. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority a management scheme for the later living / age friendly housing units, restricting the occupation of these units to

relevant persons and their spouses/partners. These units shall be occupied in accordance with the agreed management scheme thereafter.

Reason: To comply with objective DMSO37 (Age Friendly Housing) of the Fingal Development Plan 2023-2029 and to ensure the occupation of the proposed later living/age friendly units are appropriately restricted.

7. Unless otherwise agreed in writing with the planning authority, no residential unit in the proposed development hereby permitted shall be occupied until such time as the childcare facility permitted as part of Fingal County Council planning register planning reference F20A/0026 is operational, or it has been fully fitted out and is suitable for immediate occupation and operation.

Reason: In the interest of residential amenity.

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

Reason: To comply with objective DMSO194 (Provision of Public Art) of the Fingal Development Plan 2023- 2029.

9. (a) The landscaping scheme shown on the Landscape General Plan L_100 drawing, as submitted to the planning authority on the 9th day of October 2024, shall be carried out within the first planting season following substantial completion of external construction works.

(b) In addition to the proposals in the submitted scheme, prior to the commencement of development the developer shall submit for the written approval of the planning authority:

- (i) a revised landscape plan for the area along the L1130 and R122 along the south west and southern boundaries of the site, and,

- (ii) a long-term management plan outlining a methodology so that any trees to be removed (T55 to T76) are gradually replaced by mature native trees so that the continuous canopy cover at this location can be maintained and enhanced for bats.
- (c) Vegetation clearance on site shall only be undertaken outside the main bird breeding season i.e. from September to February inclusive.
- (d) Prior to the commencement of development the developer shall submit for the written approval of the planning authority detail in relation to the landscaping of headwalls, design and layout of playgrounds, a method statement for all in-stream works, and detail of the treatment of the riparian area as well as a maintenance management plan and detail of the pedestrian crossings/bridges.
- (e) 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.

Reason: In the interests of biodiversity, residential and visual amenity.

- 10. (a) Full details of the specific use of the commercial units shall be submitted to and agreed in writing with the planning authority prior to occupation of the units.
- (b) Details of commercial unit signage shall be submitted to, and agreed in writing with, the planning authority prior to operation of the units

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

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

Reason: In the interest of visual amenity.

12. Drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the relevant Section of the Council for such works and services.

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

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

Reason: In the interest of public health.

14. 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 trees within the open space areas. Such lighting shall be provided prior to the making available for occupation of any residential unit in that phase.

Reason: In the interest of amenity and public safety.

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

Reason: In the interests of visual and [residential] amenity.

16. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs 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).

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

17. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

18. Roads and footpaths shown to adjoining lands, including to the front of number 60 in the western parcel and number 66 in the southern parcel, shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning & Development Regulations, 2001 (as amended).

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

19. Proposals for an estate/street name, house/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 house/apartment numbers, shall be provided in accordance with the agreed scheme. 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.

20. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

21. (a) The applicant shall engage the services of a suitably qualified archaeologist to co-ordinate the mitigation proposals contained in the Environmental Impact Assessment Report for archaeological excavation (preservation by record) of the archaeological features already identified in advance of construction works, the wade survey of the designated sections of Clonard Stream, and the archaeological monitoring of ground disturbance at construction stage across the development site.

(b) The archaeologist shall assist in the integration of the archaeological mitigation into the Construction and Environmental Management Plan.

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

(d) The planning authority and the National Monuments Service shall be furnished with a report describing the results of the monitoring.

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

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

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

23. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) For the duplex apartments and mixed-use block this plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

(c) For the terraced housing this plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

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

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

25. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- (b) location of areas for construction site offices and staff facilities.
- (c) details of site security fencing and hoardings.
- (d) details of on-site car parking facilities for site workers during the course of construction.
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) measures to obviate queuing of construction traffic on the adjoining road network.
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.

- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (k) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

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

26. 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 and residential amenities.

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

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

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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

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

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

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

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

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

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

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

Anthony Kelly

Planning Inspector,

18th March 2025

Appendix 1

Appropriate Assessment (AA) Stage 1

Appropriate Assessment Stage 1 – Screening Determination
<p>Description of the project</p> <p>I have considered the proposed residential development in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended).</p> <p><u>Subject Site</u></p> <p>The subject site is located at the western urban edge of Balbriggan in north Co. Dublin. The site has a very irregular shape. It comprises of three main parcels, and it effectively wraps around the north west, west, south west, south and south east of the under construction/partially occupied Folkstown Park housing development. It has road frontage to Boulevard Road, the L1130, and the R122.</p> <p>The nearest designated area of natural heritage is North-west Irish Sea special protection area (SPA) (site code 004236) approx. 1.7km east of the proposed site.</p> <p><u>Proposed Development</u></p> <p>It is proposed to construct 197 residential units (147 houses/townhouses, 18 later living houses, 16 duplex units, and 16 apartments), two commercial units, and open space/ancillary development in the three development parcels. The development will facilitate Phase 4 of the lands. Wastewater is to be discharged to the public system. Surface water will discharge via SuDS to the Clonard Brook which runs through the southern area of the site.</p>
<p>Potential impact mechanisms from the project</p> <p><u>Site surveys</u></p> <p>The ‘Screening Report for Appropriate Assessment’ (Screening Report for AA) dated July 2024 submitted with the application states that the site was surveyed for previous applications each year between 2019 and 2023. Specifically for the subject application it was surveyed on January 8th, February 14th, March 15th, and April 29th 2024. The site is described as ‘composed of fields which were until recently entirely in agricultural production but are now a combination of disturbed ground associated with encroaching development to the east as well as remnants of pasture and tillage land’ (page 7). On foot of a site inspection I generally agree with this description of the subject site. The only habitats described as of high local value are hedgerows in the south of the site.</p>

The Screening Report for AA states 'There is no data, including from previous surveys of the development lands, that these lands are regularly utilised for feeding or roosting, or otherwise of importance, for bird species which are listed on Annex I of the Birds Directive or which are qualifying interests of SPAs' (page 7). Page 8 states 'The January 2020 and 2021 studies ... were carried out during the optimal season for wintering birds. No such bird species of gulls/geese/waders or seabirds ... was recorded during these surveys. Similarly, surveys carried out in January, February and March 2024 did not record any such species. The survey in April 2024 noted a small flock of Herring Gull as well as a single Lesser Black-backed Gull and this coincided with ploughing of the field which creates a temporary foraging opportunity for the birds'. Ornithological surveys carried out for the LRD006/S3 / ABP-319343-24 LRD application adjacent to the north are also referenced.

European Sites

Figure 4 and pages 12-33 of the applicant's Screening Report for AA identify twelve European sites (five special areas of conservation (SACs) and seven special protection areas (SPAs)) within a 15km radius / precautionary potential zone of influence (Zol) of the proposed development.

There would be no direct loss of habitat within the boundary of any SAC or SPA. There is no terrestrial pathway between the development site and any European site. Given the comments in the Screening Report for AA I am satisfied that the subject site is not of any notable importance for birds which are special conservation interests (SCIs) of the SPAs in the vicinity in terms of breeding, foraging, or roosting. I also note the extent of existing construction activity and permitted development adjacent to the subject site, the zoned nature of the site, and the substantial areas of undeveloped land to the north, west, and south which could be utilised by SPA SCI species.

There is, however, a hydrological pathway. The North-west Irish Sea SPA is approx. 1.7km to the east of the site and there is a hydrological pathway by way of the Clonard Brook which discharges to the marine environment at the SPA boundary, a distance of approx. 1.9km hydrologically. The next closest European sites are River Nanny Estuary and Shore SPA (site code 004158) and Skerries Islands SPA (site code 004122). The hydrological distances to these sites are approx. 6.5km and 8.9km respectively. Apart from the North-west Irish Sea SPA, due the substantial dilution effect of the Irish Sea, I do not consider it possible for hydrological effects to occur at other offshore marine European sites.

The Screening Report for AA considers that the only site that could be affected by potential pathways from the proposed development is North-west Irish Sea SPA. I concur with this assessment and consider that the other sites can be excluded from further consideration and there would not be any significant effects on the relevant qualifying habitats or species.

Effect Mechanisms

'The Assessment of Significance of Effects' on pages 35-38 of the Screening Report for AA considers the potential impacts that may affect the North-west Irish Sea SPA as a result of the proposed development. Potential issues ruled out are summarised as follows:

- Habitat loss – No loss would arise.
- Habitat disturbance – There is no pathway to disturbance given the considerable separation distance.
- Ex-situ impacts – Reference is made to bird surveys indicating that the subject site is not of particular significance for SCI species. An abundance of similar habitat is available. No significant ex-situ effects are likely to arise.
- Pollution during operation (wastewater) – The wastewater treatment plant for Balbriggan is operating to a high standard and has ample treatment capacity. No effects are arising from discharge. Wastewater is not likely to significantly affect this, or any other, European site.
- Pollution during operation (surface water) – The surface water drainage strategy complies with the Greater Dublin Strategic Drainage Study and would ensure the use of SUDS to maintain a 'greenfield' run-off rate. These are not mitigation measures in an AA context. No significant effects to European sites are likely to arise from this source.

The Screening Report for AA does, however, identify a potential impact that may affect the SCIs of the SPA. This can be summarised as follows:

- Pollution during construction – Using the precautionary approach, as a result of earthworks / disturbance of soil during the construction phase, the potential for large quantities of silt or other construction pollutants to be washed downstream to the SPA via Clonard Brook means that significant effects to the SPA cannot be ruled out. However, given the substantial dilution effect of the Irish Sea, any pollutant plume would not extend to other European sites.

I agree with the applicant's assessment of potential impacts that may affect the North-west Irish Sea SPA as a result of the proposed development. Having regard to the foregoing, in my opinion the only effect mechanism that may have a likely significant impact on the single European site within the Zol, North-west Irish Sea SPA, is:

A) Surface water pollution during construction phase.

European site at risk from impacts of the proposed project

Table 1 – North-west Irish Sea SPA (site code 004236)

Effect mechanism	Impact pathway / Zol	European site (and distance away)	SCI features
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A) Surface water pollution during construction phase	Indirect impact via a hydrological pathway	North-west Irish Sea SPA (approx. 1.7km to the east as the crow flies and approx. 1.9km hydrologically)	Red-throated diver [A001] Great northern diver [A003] Fulmar [A009] Manx shearwater [A013] Cormorant [A017] Shag [A018] Common scoter [A065] Little gull [A177] Black-headed gull [A179] Common gull [A182] Lesser black-backed gull [A183] Herring gull [A184] Great black-backed gull [A187] Kittiwake [A188] Roseate tern [A192] Common tern [A193] Arctic tern [A194] Little tern [A195] Guillemot [A199] Razorbill [A200] Puffin [A204]
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The North-west Irish Sea SPA is an important resource for marine birds. This SPA extends offshore along the coasts of counties Louth, Meath and Dublin, and is approximately 2,333km² in area. It is ecologically connected to several existing SPAs providing supporting habitat for foraging and other maintenance behaviours for seabirds that breed at colonies on the north-west Irish Sea's islands and coastal headlands, and also for seabirds outside of the breeding period. The site is designated for 21 marine bird species including non-breeding and breeding populations.

Likely significant effects on the European site 'alone'

Table 2: Could the project undermine the conservation objectives 'alone'

European Site and Relevant SCIs – North-west Irish Sea SPA (site code 004236)	Conservation Objective	Could the conservation objectives be undermined (Y/N)?		
		Effect A	Effect B	Effect C
<p>Red-throated diver [A001]</p> <p>Great northern diver [A003]</p> <p>Fulmar [A009]</p> <p>Manx shearwater [A013]</p> <p>Cormorant [A017]</p> <p>Shag [A018]</p> <p>Common scoter [A065]</p> <p>Little gull [A177]</p> <p>Black-headed gull [A179]</p> <p>Common gull [A182]</p> <p>Lesser black-backed gull [A183]</p> <p>Herring gull [A184]</p> <p>Great black-backed gull [A187]</p> <p>Kittiwake [A188]</p> <p>Roseate tern [A192]</p> <p>Common tern [A193]</p>	<p>15 SCIs have, as their conservation objective, to maintain its favourable conservation objective i.e. A001, A003, A013, A065, A177, A179, A182, A183, A187, A192, A193, A194, A195, A199, and A200.</p> <p>Six SCIs have, as their conservation objective, to restore its favourable conservation objective i.e. A009, A017, A018, A184, A188, and A204.</p> <p>Conservation objectives are defined by the following targets:</p> <ul style="list-style-type: none"> Population trends are stable or increasing / no significant decline. Spatial distribution: Sufficient number of locations, area, and availability (in terms of timing and intensity of use) of suitable habitat to support the population. Forage distribution extent and abundance: Sufficient number of locations, area of suitable habitat and available forage biomass to support the population target. Disturbance across the site: The intensity, frequency, timing and duration of disturbance occurs at levels that do not significantly 	Y		

Arctic tern [A194] Little tern [A195] Guillemot [A199] Razorbill [A200] Puffin [A204]	<p>impact the achievement of targets for population size and spatial distribution.</p> <ul style="list-style-type: none"> The number, location, shape and area of barriers do not significantly impact the site population's access to the SPA or other ecologically important sites outside the SPA. 			
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Effect Mechanism A (Surface Water Pollution During the Construction Phase)

I conclude that it is possible that construction phase surface water runoff from the site, discharging to the Irish Sea at a location bounding the North-west Irish Sea SPA, could be contaminated by silt, sediment and/or other construction pollutants arising from construction phase activities. Even though I note that water quality itself is not specifically cited in the relevant attributes, measures, or targets for the SPA, a degradation of water quality could affect its conservation objectives in relation to the extent and abundance of forage biomass on which all SCIs depend to one degree or another. AA is required on the basis of the effects of the project 'alone'.

AA Stage 1 Conclusion – Screening Determination

In accordance with section 177U (4) of the Planning & Development Act, 2000 (as amended), and on the basis of objective information, having carried out AA screening (Stage 1) of the project, I have determined that the project may have likely significant effects on North-west Irish Sea SPA (site code 004236), in view of the site's conservation objectives and special conservation interests (SCIs).

AA (Stage 2) is therefore required of the implications of the project on the SCIs of the SPA set out above in light of its conservation objectives.

The possibility of likely significant effects on other European sites has been excluded on the basis of the nature and scale of the project, separation distances, and the dilution strength of the Irish Sea.

No measures intended to avoid or reduce harmful effects on European sites have been taken into account in reaching this conclusion.

Appendix 2

Appropriate Assessment (AA) Stage 2

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

The Natura Impact Statement

The application was accompanied by a 'Natura Impact Statement' (NIS) dated July 2024. The NIS is based on the separate Screening Report for AA. The document 'provides information to allow Fingal County Council to carry out an Appropriate Assessment of the proposed development' (page 2). It sets out the methodology used, a development and site description including reference to the surveys carried out, the impact prediction i.e. potential for pollution during the construction phase, the relevant conservation objectives, the mitigation measures to avoid, reduce, or remedy the adverse effects on the integrity of the site, and reaches a conclusion on the significance of effects.

The NIS concludes that pathways exist between the subject site and North-west Irish Sea SPA and significant effects to the SPA can not be ruled out; 'Specifically, this may arise from the impact to marine habitats from pollution during the construction phase. Arising from this assessment, mitigation has been proposed. With the implementation of these measures adverse effects to the integrity of the SPA will not occur. This conclusion is based on best scientific knowledge'.

Having reviewed the documentation and submissions I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the North-west Irish Sea SPA alone, or in combination with other plans and projects.

Submissions and Observations

AA-related issues were not referenced in any of the three submissions received by FCC from third party observers.

The Dept. of Housing, Local Government and Heritage did reference AA under the heading 'Nature Conservation' in its observation dated 9th September 2024. The Department accepted the conclusion in the applicant's NIS that with the implementation of mitigation measures during the construction phase and the provision of SuDS during operation, no adverse effects should result to the SPA.

FCC's second Planning Report concluded 'Having examined, analysed and evaluated the content of the proposed development, including the information and assessments presented in the submitted NIS, the Planning Authority consider that following the implementation of the mitigation measures outlined in the submitted NIS, adverse effects to the integrity on the Qualifying Interests of any Designated Sites will not occur, in light of their Conservation Objectives. This conclusion is based on best scientific knowledge'.

Appropriate Assessment of Implications for the Proposed Development

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

European Sites

North-west Irish Sea SPA is the only European site subject to AA. Its conservation objectives are set out in the 'North-west Irish Sea SPA 004236' Conservation Objectives Series document published by the National Parks & Wildlife Service (NPWS), and they are summarised in table 2 of appendix 1 to this report. The conservation objectives are either to maintain or restore the favourable conservation condition of the species.

Aspects of the Proposed Development that could affect Conservation Objectives

Having regard to the foregoing, I consider that the only issue to be addressed is the potential for polluted waters to discharge to the European site (North-west Irish Sea SPA) during the construction phase and in-combination impacts. There is the potential for downstream effects if significant quantities of pollution were introduced to the surface water network during construction works. Though I note that water quality itself is not specifically cited in the relevant attributes, measures, or targets for the site, a degradation of water quality could affect its conservation objectives in relation to the extent and abundance of forage biomass on which all SCIs depend to one degree or another.

The following table is based on the NIS and NPWS data²² etc. The relevant conservation objectives for the European site have been examined and assessed with regard to the identified potential significant effect and all aspects of the project both alone and in-combination with other plans and projects. Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed and clear, precise, and definitive conclusions reached in terms of adverse effects on the integrity of the European site.

²² NPWS data accessed via the NPWS website on 7th March 2025.

Table 1 – Summary of AA of implications of the proposed development on the integrity of North-west Irish Sea (site code 004236) alone and in-combination with other plans and projects in view of the site's conservation objectives					
<p>Summary of key issues that could give rise to adverse effects:</p> <ul style="list-style-type: none"> The potential for polluted waters to discharge to the SAC during the construction phase <p>Conservation objectives: see https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004236.pdf</p>					
Summary of Appropriate Assessment (AA)					
Relevant special conservation interest (SCI) features	Conservation objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Red-throated diver [A001] Great northern diver [A003] Fulmar [A009] Manx shearwater [A013] Cormorant [A017] Shag [A018] Common scoter [A065]	<p>15 SCIs have, as their conservation objective, to maintain its favourable conservation objective i.e. A001, A003, A013, A065, A177, A179, A182, A183, A187, A192, A193, A194, A195, A199, and A200.</p> <p>Six SCIs have, as their conservation objective, to restore its favourable conservation objective i.e.</p>	<p>Adverse effects arising from the construction phase activity and relate to downstream impacts via the surface water network</p>	<p>Mitigation measures can be outlined under a number of subheadings. A brief summary of measures include:</p> <p><i>Pollution prevention during construction</i></p> <ul style="list-style-type: none"> Construction will follow guidance from Inland Fisheries Ireland (IFI) e.g. silt curtain, settlement pond, 	<p>The NIS (page 9) notes the zoned nature of the site, and that the FDP 2023-2029 was itself subject to AA, though prior to this specific European site being in existence.</p> <p>The NIS takes into consideration the wider Folkstown Park development, the</p>	<p>Yes. The NIS concludes that, with the implementation of mitigation measures 'adverse effects to the integrity of the SPA will not occur. This conclusion is based on best scientific knowledge'.</p> <p>I agree with the conclusion and consider</p>

<p>Little gull [A177]</p> <p>Black-headed gull [A179]</p> <p>Common gull [A182]</p> <p>Lesser black-backed gull [A183]</p> <p>Herring gull [A184]</p> <p>Great black-backed gull [A187]</p> <p>Kittiwake [A188]</p> <p>Roseate tern [A192]</p> <p>Common tern [A193]</p> <p>Arctic tern [A194]</p> <p>Little tern [A195]</p> <p>Guillemot [A199]</p> <p>Razorbill [A200]</p> <p>Puffin [A204]</p>	<p>A009, A017, A018, A184, A188, and A204.</p> <p>Conservation objectives are defined by the following targets:</p> <ul style="list-style-type: none"> • Population trends are stable or increasing / no significant decline. • Spatial distribution: Sufficient number of locations, area, and availability (in terms of timing and intensity of use) of suitable habitat to support the population. • Forage distribution extent and abundance: Sufficient number of locations, area of suitable habitat and available forage biomass to support the population target. • Disturbance across the site: The intensity, 		<p>appropriate storage of dangerous substances.</p> <p><i>Headwall and surface water sewer construction</i></p> <ul style="list-style-type: none"> • In-stream works to be carried out in accordance with an approved method statement <p><i>General water protection measures</i></p> <ul style="list-style-type: none"> • SuDS in line with manufacturer's guidance • Protection of certain surfaces from compaction • Contaminated waters will not be allowed to enter watercourse or drain by way of e.g. early construction of 	<p>permitted Flemington Lane LRD adjacent to the north, a distillery/light industrial development (F22A/0033) approx. 400 metres to the south, and a permission for infrastructure works to facilitate future community facilities and residential development approx. 2km to the south east.</p> <p>Page 11 of the NIS states that the potential effects of these developments 'have been analysed in this report and are not likely to result in significant effects to Natura 2000 sites'.</p>	<p>that adverse effects on integrity can be excluded.</p>
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	<p>frequency, timing and duration of disturbance occurs at levels that do not significantly impact the achievement of targets for population size and spatial distribution.</p> <ul style="list-style-type: none"> • The number, location, shape, and area of barriers do not significantly impact the site population's access to the SPA or other ecologically important sites outside the SPA. 		<p>sediment management basins, channelling runoff away, and erosion prevention measures</p> <ul style="list-style-type: none"> • Appropriate storage of hydrocarbons and hazardous chemicals • Pouring of cement only in dry conditions • Where foul drainage is not discharged directly to the public system will be appropriately disposed of off-site 	<p>I am satisfied, subject to implementation of the mitigation measures, that there would not be in-combination effects such that there would be any likely significant impact on any European site.</p>	
<p>Overall Conclusion: Integrity Test</p> <p>I am able to ascertain with confidence that the construction of the proposed development would not adversely affect the integrity of North-west Irish Sea SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.</p>					

Mitigation Measures

Mitigation measures are set out in pages 14-16 of the applicant's NIS. The measures set out in table 1, above, are brief summations of some of the measures proposed and are not an exhaustive list of the relevant measures cited in the NIS.

I consider that the proposed mitigation measures are standard, well-proven, good practice measures that would mitigate the potential for polluted waters to discharge to the SPA during the construction phase and they are measures capable of being successfully implemented.

In-Combination Effects

Pages 9 and 10 of the applicant's NIS identifies a number of permitted planning applications in the general Balbriggan area. These generally relate to substantial developments. It is clear that Balbriggan is currently undergoing significant expansion, particularly in the vicinity of the subject site. It is noted that the site is appropriately zoned under the FDP 2023-2029, and that the Plan itself has undergone AA, notwithstanding that the North-west Irish Sea SPA did not exist at that time.

I agree with the overall finding that no adverse in-combination impacts are foreseen. As I do not consider that the proposed development on its own will have any undue adverse effects on North-west Irish Sea SPA, I do not consider that it would have any in-combination effects. I am also satisfied that no relevant planning application of note has been submitted in the vicinity since the planning application was submitted that would have an in-combination effect.

Appropriate Assessment (AA) Conclusion

The proposed development has been considered in light of the assessment requirements of sections 177U and 177V of the Planning & Development Act, 2000 (as amended).

Having carried out screening for AA of the project, it was concluded that it may have a significant effect on North-west Irish Sea SPA (site code 004236). Consequently, AA was required of the implications of the project on the qualifying features of that site in light of their conservation objectives. The possibility for significant effects was excluded for other European sites.

Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of North-west Irish Sea SPA, or any other European site, in view of the site's conservation objectives.

This conclusion is based on:

- a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the conservation objectives of North-west Irish Sea SPA,
- an assessment of in-combination effects, and,
- no reasonable scientific doubt as to the absence of adverse effects on the integrity of North-west Irish Sea SPA.

Anthony Kelly
Planning Inspector

Date