



An  
Bord  
Pleanála

## Inspector's Report ABP-321455-24

<b>Development</b>	Large-scale residential development (LRD): Construction of 123 dwellings.
<b>Location</b>	A site fronting the Swords to Malahide Road (R106), Mountgorry, Swords, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council.
<b>Planning Authority Reg. Ref.</b>	LRD0025/S3E.
<b>Applicant(s)</b>	Bartra Propco No. 23 Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Bartra Propco No. 23 Limited.
<b>Observer(s)</b>	Seamount View Residents Association. Anne James.
<b>Date of Site Inspection</b>	27 January 2025.

**Inspector**

Stephen Rhys Thomas.

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## **1.0 Site Location and Description**

- 1.1. The appeal site, which has a stated developable area of 0.8731ha (including drainage works 0.8792ha in total), is located on the eastern side of Swords and along the R106. The site is currently undeveloped and overgrown. The site fronts onto the Swords to Malahide Road (R106), in the eastern suburbs of Swords. The site is bound to the west by open space, with Seamount View Housing Estate further to the west, to the east by an access road to a service station and to the north by Swords Business Park.
- 1.2. Site levels vary from 22m (od) at the southern site boundary to 20m to the north. An existing electricity cable traverses the site, running north to south close to the site's western boundary. There is a drop downwards from the R106 to the site, which then falls very gently northwards.
- 1.3. Existing boundary treatment includes a mature tree line to the west and fencing to the east and south. The northern boundary is at the apex of this almost triangular shaped site and comprises a combination of timber fencing and scrub hedging and trees. The eastern boundary of the site adjoins a footpath, cycleway and the access road that serves a service station to the east. The access road terminates adjacent to the north eastern boundary of the site. To the west the site is adjoined by a public park and existing 2 storey residential properties at Seamount View, further to the west.
- 1.4. Access to the site is provided via a gated entrance to the east of the site from the local access road. An existing access is also provided along the southern site boundary with the R106. A public footpath is located adjacent to the southern and eastern site boundaries. Development to the south and west is characterised as residential with a combination of two storey houses and apartment blocks up to three storeys in height. The business park to the north comprises large commercial premises and offices up to three storeys in height, with a variety of building finishes.

## **2.0 Proposed Development**

- 2.1. The proposed development will consist of:  
123 dwelling units in a single perimeter block building on a site of 0.8731 Hectares

- 55 one bed apartments
- 68 two bed apartments

The development will be provided in a courtyard block arrangement ranging in height from part four to part five storeys (19.27 metres).

The proposed development will provide: vehicular access from the road to the east; 24 car parking spaces; bicycle parking spaces; motorcycle parking spaces; pedestrian/cycle entrances at the southwest and north of the site, and along the western boundary connecting into the adjoining open space; a footpath and bicycle path around the south, east and north of the site perimeter and a shared cycle/pedestrian path along the western boundary;

Communal and public open spaces comprising hard and soft landscaping; boundary treatments; green roofs; lift overrun; PV panels; lighting; ESB substation; switchroom and plant.

2.2. As part of the grounds of appeal, the applicant submitted an 'Option B', the principal changes in these revised drawings comprise:

- Omission of 4 one bedroom apartments at the south western corner of the apartment block, apartment units 405, 406, 407 and 408.
- The provision of a roof garden in place of the four units removed as above.

2.3. The principal development statistics of the initial proposal are as shown in a tabular format below:

Site Area	0.879 ha
Development Area	0.8731 ha (zoned MRE)
Total GFA	10,291 sq.m
Number of Units	123
Unit Mix	55 one bedroom units (45%) 68 two bedroom units (55%)
Plot Ratio	1.18
Site coverage	25%

Amenities & Facilities	Internal Bike and Bin Storage External Bike Storage buildings Play areas
Density	141 dwellings per hectare (dph)
Building Height	4-5 storeys (19.2 metres)
Car Parking	24 spaces
Bicycle Parking	404 spaces (274 long, 120 short term)
Dual Aspect Units	62% (76 of 123 units)
Public Open Space	1,142 sq.m (13% of site)
Communal Amenity Space	1,011 sq.m
Open space	Public Open Space – 1.142 sqm 13% Communal Open Space – 932 sqm

2.4. The application was accompanied by the following:

1. Planning Report and Statement of Consistency
2. Response to Fingal County Council's Opinion
3. Architectural Design Statement
4. Housing Quality Assessment
5. Schedule of Accommodation
6. Engineering Services Report
7. Traffic Assessment & Parking Strategy
8. DMURS Statement of Consistency
9. Mobility Management Plan
10. Stage 1 Road Safety Audit
11. Landscape Report
12. Climate Action Energy Statement

13. External Public Lighting Report
14. Arboricultural Assessment & Impact Report
15. Appropriate Assessment Screening Report
16. Ecological Impact Assessment Report
17. Environmental Impact Assessment Screening Report
18. Statement in accordance with Article 103(1A)a of the Planning and Development Regulations 2001
19. Construction & Environmental Management Plan
20. Operational Waste Management Plan
21. Resource and Waste Management Plan
22. BRE Daylight & Sunlight Assessment
23. Landscape and Visual Impact Assessment
24. Noise & Vibration Impact Assessment
25. Telecommunications Impact Assessment Report
26. Verified Photomontages and CGIs
27. Childcare Demand Assessment
28. School Demand Assessment
29. Social Infrastructure Audit
30. Life Cycle Report
31. Part V Costings

### **3.0 Large-Scale Residential Development (LRD) Opinion**

- 3.1. The applicant has engaged with the Planning Authority in accordance with the provisions of Section 247(7) (a) and (b) of the Planning and Development Act 2000, as amended, and obtained a determination that no further consultation is required in relation to the proposed development. A section 247 meeting took place between the applicant and the Planning Authority on 28<sup>th</sup> April 2023, reference LRD0025/S1, a second meeting took place on the 23<sup>rd</sup> April 2024, reference LRD0025/S2 and the



application has been lodged within 6 months of this date as required under Section 32A(2) of the Planning and Development Act 2000, as amended.

- 3.2. Following the pre-planning meeting, the Council issued an Opinion, in accordance with Section 32D(2) of the Planning and Development (Large Scale Residential Developments) Act 2021 and advised that the documentation submitted for the purposes of the S32C meeting, in its current form did constitute a reasonable basis for making an LRD application but required further consideration and amendment.
- 3.3. The Opinion identified six areas that required further consideration and amendment, these include:
  - Justification for residential development within MRE zoning, unit mix, density, residential amenity, childcare, AA Screening, layout, sunlight/daylight, car parking shortfall, tree retention, open space, and other technical details.
- 3.4. The applicant submitted a Statement of Response with the planning application which addresses the matters cited by the Planning Authority in the LRD Opinion. The proposed development as submitted took account of the issues identified and provides a comprehensive response detailing adjustments that have been implemented to resolve the planning authority's concerns.

## **4.0 Planning Authority Decision**

### **4.1. Decision**

- 4.1.1. Fingal County Council decided to refuse permission for four reasons, summarised as follows:
  1. Located on lands zoned Metro and Rail Economic Area (MRE), the area is envisioned for compact employment generating activity, with commercial/residential development of exemplary urban design. The proposal is entirely residential, and this would materially contravene the MRE zoning objective.
  2. The design, scale, mass, bulk and external finish of the development would result in an unduly dominant structure in the streetscape, this is inconsistent with the existing character of the area and visual amenity would be

detrimentally impacted. This would work against the MRE zoning that seeks exemplary urban design, public realm and architecturally strong landmark buildings that fit in with their surroundings, specifically at this roundabout location. The proposal is contrary to development plan Policy SPQHP35 and SPQHP34 and the Sustainable Residential Development and Compact Settlement Guidelines.

3. The proposal is contrary to Objective DMSO246 of the development plan and impact residential amenity, because the layout does not adequately mitigate for the predicted external/internal noise levels, and exceeds the recommended limits set out by BSI Standards Publication BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings. The design response to mitigate the impact of external noise on an internal courtyard would set a poor precedent as it would result in and an unsatisfactory amount of overshadowing.
4. Given the height of the proposed development, communal area A (courtyard) will be significantly overshadowed and result in poor quality residential amenity.

## **4.2. Planning Authority Reports**

### **4.2.1. Planning Reports**

The location of the site within the MRE zoning and at a prominent location, the development would not meet the urban design requirements and as a solely residential proposal would materially contravene the development plan. The density is too high and far greater than the previous proposal on the site. The architectural approach is not suitable for this prominent location. Car parking acceptable. Apartment layout and design including sunlight/daylight are acceptable in terms of apartment/development plan standards. Given the proximity of Dublin Airport and associated noise, not all units achieve the required standards and sufficient mitigation measures have not been advanced. No water services or traffic/transportation issues. Landscaping issues include deficiency in public open space and some areas overshadowed. No environment or AA issues of note. The

Planner recommended that permission be refused for four reasons. The decision to refuse permission issued by Fingal County Council reflects this recommendation.

#### 4.2.2. Other Technical Reports

Air & Noise Section – no objection, condition recommended.

Public Lighting Section - no objection, conditions recommended.

Architects Department- changes recommended.

Active Travel Department - no objection, condition recommended.

Transportation Planning Section - no objection, conditions recommended.

Heritage Officer - no objection

Ecology Report - no objection, conditions recommended.

Parks and Green Infrastructure Division - no objection, condition recommended.

Water Services Department - no objection, conditions recommended.

Housing Department - no objection, condition recommended.

#### 4.2.3. Conditions

- The conditions highlighted by the various Council departments and prescribed bodies are noted.

#### 4.3. Prescribed Bodies

**Uisce Éireann** - no objection, condition recommended.

#### 4.4. Third Party Observations

- 4.4.1. There are five observations recorded on the planning file, issues relate to: zoning, building height, parking, open space, traffic and transport, community infrastructure, sustainability and climate action and overshadowing.

### 5.0 Planning History

#### 5.1. LRD Appeal Site:

**F19A/0521** and **ABP-307526-20** – Permission for a change of use and amendments to F17A/0714 for mixed use development. 154 apartments and commercial space in buildings up to six storeys. The Board order reduced development to 128 dwelling units and the omission of Block C.

**F17A/0714** - permission for a mixed use commercial and residential development. The permitted development comprised of the following:

- 59 residential units.
- 6,177 sq.m. of office floorspace
- 332 sq.m. of restaurant floorspace

## **6.0 Policy Context**

### **6.1. National Planning Policy**

#### **6.1.1. Project Ireland 2040 - National Planning Framework**

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

- NSO 1 - Compact Growth
- NSO 7 - Enhanced Amenity and Heritage
- NPO 3a - Securing Compact & Sustainable Growth
- NPO 3c - Securing Compact & Sustainable Growth
- NPO 4 - Why Urban Places Matter (Community)

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

#### 6.1.2. Climate Action Plan (CAP) 2024

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

Cap 24 outlines measures and actions by which the national climate objective of transitioning to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy by 2050 is to be achieved. These include the delivery of carbon budgets and reduction of emissions across sectors of the economy. Of relevance to the proposed development, is that of the built environment sector. The Board must be consistent with the Plan in its decision making.

#### 6.1.3. National Biodiversity Action Plan (NBPA) 2023-2030

The 4th NBAP strives for a "whole of government, whole of society" approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also

understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”. This National Biodiversity Action Plan 2023- 2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

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

## **6.2. National Guidance**

Design Manual for Urban Roads and Streets DMURS (2013), updated 2019.

## **6.3. Section 28 Ministerial Guidelines**

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

- Housing for All: A New Housing Plan for Ireland (2021)
- Rebuilding Ireland: Action Plan for Housing & Homelessness (2016)
- Appropriate Assessment Guidelines (2009)
- Architectural Heritage Protection Guidelines (2011)
- Childcare Facilities Guidelines (2020)
- Environmental Impact Assessment Guidelines (2018)
- Flood Risk Management Guidelines (2009)
- Regulation of Commercial Institutional Investment in Housing Guidelines (2021)
- Sustainable Urban Housing: Design Standards for New Apartments (2020)

- Urban Development and Building Heights Guidelines (2018)
- Best Practice Urban Design Manual (2009)
- Quality Housing for Sustainable Communities (2007)
- Circular Letter: NRUP 02/2021 (Residential Densities in Towns and Villages)
- Housing Circular 28/2021 (Affordable Housing Act 2021 - Amendments to Part V)
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)
- Urban Development and Building Heights Guidelines for Planning Authorities (2018)
- Childcare Facilities Guidelines for Planning Authorities (2020)
- Guidelines for Planning Authorities on the Planning System and Flood Risk Management (2009)
- Part V of the Planning and Development Act 2000 Guidelines (2017)
- Local Area Plans Guidelines for Planning Authorities (2013)
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment (2018)

#### **6.4. Regional Guidelines**

- 6.4.1. Eastern and Midland Regional Assembly - Regional Spatial and Economic Strategy 2019-2031 (EMRA-RSES)
- 6.4.2. The Strategy supports the implementation of Project Ireland 2040 and the National Planning Framework (NPF). The RSES provides a development framework for the region through the provision of a Spatial Strategy, Economic Strategy, Metropolitan Area Strategic Plan (MASP), Investment Framework and Climate Action Strategy. The Dublin MASP is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area.

- 6.4.3. RPO 3.2 Promote compact urban growth, targets at least 50% of all new homes to be built, to be within or contiguous to the existing built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- 6.4.4. RPO 3.3 notes that Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites and provide for increased densities as set out in the national policy.
- 6.4.5. Regional Policy Objective 4.3 supports the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport.
- 6.4.6. The site lies within the Dublin Metropolitan Area (DMA). The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas to ensure a steady supply of serviced development lands to support sustainable growth.
- 6.4.7. Section 5.3 identifies guiding principles for development of the MASP area including:  
Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing supply in order to achieve higher densities in urban built up areas, supported by improved services and public transport.
- 6.4.8. RPO 5.3 - Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.
- 6.4.9. RPO 5.4. - Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable



Urban Housing: Design Standards for New Apartments' Guidelines and 'Urban Development and Building Heights Guidelines for Planning Authorities.

- 6.4.10. RPO 5.5 - Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

## 6.5. Development Plan

- 6.5.1. The operative plan for the area is the **Fingal Development Plan 2023 – 2029**. The plan has been prepared in accordance with Project Ireland 2040 and the Regional Spatial and Economic Strategy (RSES) for the Eastern & Midland Region, as well as relevant national policy guidance and advice, section 1.9 of the plan refers.
- 6.5.2. The site is located on lands zoned – MRE 'Facilitate opportunities for high-density mixed-use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro and Rail Economic Corridor.' The vision attributed to MRE zoning is to provide for an area of compact, high intensity/density, employment generating activity with associated commercial and residential development which focuses on the MetroLink, or rail or light rail stations within settings of exemplary urban design, public realm streets and places, which are permeable, secure and within a high-quality green landscape. Landmark buildings will provide strong quality architectural features, which respect and enhance the character of the area into which they sit. The designated areas will form sustainable districts which possess a high degree of connectivity and accessibility and will be developed in a phased manner subject to the necessary provision of social and physical infrastructure.
- 6.5.3. Residential is a land use that is permitted in principle on lands subject to MRE zoning.
- 6.5.4. **Relevant policies and objectives:**
- Objective EEO16– Design Proposals on MRE Zoned Lands.

Ensure high quality urban design proposals within the Metro and Rail Economic Corridor Zoning, incorporating exemplary public spaces, contemporary architecture and sustainable places within a green landscape setting.

#### Policy SPQHP35 – Quality of Residential Development

Promote a high quality of design and layout in new residential developments at appropriate densities across Fingal, ensuring high-quality living environments for all residents in terms of the standard of individual dwelling units and the overall layout and appearance of developments. Residential developments must accord with the standards set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG 2009 and the accompanying Urban Design Manual – A Best Practice Guide and the Sustainable Urban Housing; Design Standards for New Apartments (DHLGH as updated 2020) and the policies and objectives contained within the Urban Development and Building Heights Guidelines (December, 2018). Developments should be consistent with standards outlined in Chapter 14 Development Management Standards.

#### Objective SPQHO34 – Integration of Residential Development

Encourage higher residential densities where appropriate ensuring proposals provide for high quality design and ensure a balance between the protection of existing residential amenities and the established character of the surrounding area with a target minimum amount of 15% (except in cases where the developer can demonstrate that this is not possible, in which case the 12% to 15% range will apply) amount of green space, tree coverage and public space associated with every residential area.

#### Objective DMSO246 – Apartment Developments and Noise Transmission

All apartment developments should be designed as to ensure noise transmission between units and from external or internal communal areas is minimised. Guidance for noise reduction in building is set out in BS 8233:2014.

#### 6.5.5. **Other relevant policies and objectives include the following:**

*Core Strategy and Settlement Hierarchy* - Swords is identified as a 'Key Town' within the Metropolitan Area. The core strategy of the Development Plan outlines the overall hierarchy for the county with the intention that "each identified settlement centre will

accommodate an agreed quantum of future development appropriate to its respective position in the hierarchy".

Policy CSP1 - Core Strategy.

Policy CSP2 - Compact Growth and Regeneration

Policy CSP3 - Strategic Development Areas and Corridors

Objective CSO1 - Sufficient Zoned Land

Objective SPQHO1 - Sustainable Communities

Objective SPQHO2 - Key Principles - Support development which enhances the quality of the built environment, promotes public health, and supports the development of sustainable, resilient communities.

Objective SPQHO1 - Sustainable Communities

Objective SPQH06 - Universal Design Approach

Objective SPQHO11 - Housing Need

Objective SPQHO12 - Fingal Settlement Strategy

Objective SPQHO31 - Variety of Housing Types

Objective SPQHO32 - Property Management:

Objective SPQHO33 - New Residential Development and Energy Efficiency

Objective DMSO19 - New Residential Development

Objective DMSO22 - Daylight and Sunlight Analysis

Objective DMSO23 - Separation Distance

Objective DMSO24 - Apartment Development

Objective DMSO26 - Separation Distance between Side Walls of Units

Objective DMSO27 - Minimum Private Open Space Provision

Objective DMSO71 - Overshadowing of Private Open Space

Objective DMSO72 - Boundary Treatment to Private Open Space

Objective DMSO73 - Balconies, Roof Terraces or Winter Gardens

Objective DMSO74 - Screening of Private Open Space

Objective DMSO75 - Communal Amenity Space

Table 14.14: Open Space requirement for Apartment and Duplex Units

Objective DMSO78 - Community and Social Infrastructure Audit

Objective DMSO239 - Refuse Storage Areas

Objective DMSO240 - Distance to Communal Bin Areas

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

Policy GINHP12:

Objective GINHO35

Objective GINHO56

Objective GINHO57

**6.6. Natural Heritage Designations**

- 6.6.1. The proposed development site is not within or proximate to a designated conservation area, appendix 3 of this report refers.

**7.0 Environmental Impact Assessment (EIA) Screening**

**7.1. Introduction**

- 7.1.1. The applicant prepared a document entitled 'Environmental Impact Assessment (EIA) Screening Report', prepared by a technical team of suitably qualified and competent persons. The report states that the criteria as set out in Schedule 7 of the Regulations has been assessed, it is based on relevant information received and as set out in Schedule 7A. The EIA Screening report concludes that the proposed development will not be likely to have significant effects on the environment. The planning authority carried out an EIA Screening Determination and concluded that an Environmental Impact Assessment Report (EIAR) is not required.

**7.2. Assessment**

- 7.2.1. Detailed assessment is set out at Appendices 1 and 2 of this report.

**7.3. Conclusion**

7.3.1. Having regard to: -

1. the criteria set out in Schedule 7, in particular
  - a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
  - b) The location of the site on zoned lands (Zoning Objective 'MRE' - 'Facilitate opportunities for high-density mixed-use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro and Rail Economic Corridor'), and other relevant policies and objectives in the Fingal Development Plan 2023-2029, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).
  - c) The infill nature of the site and its location in an urban neighbourhood area which is served by public services and infrastructure.
  - d) The pattern of existing and permitted development in the area.
  - e) The planning history at the site and within the area.
  - f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
  - g) The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government (2003).
  - h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
  - i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
  - j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction Environmental Management Plan, Ecological

Impact Assessment, Arboricultural Assessment & Impact Report, Site Specific Flood Risk Assessment (Chapter 6 of the Engineering Services Report), Noise and Vibration Impact Assessment, and Mobility Management Plan

7.3.2. The preparation of an EIAR is not required.

## **8.0 The Appeal**

### **8.1. Grounds of Appeal**

8.1.1. A First-Party Appeal was submitted to An Bord Pleanála on the 16<sup>th</sup> of December 2024 by the Applicant opposing the Planning Authority's decision, the grounds of appeal can be summarised as follows:

- Reason 1 - The MRE zoning states residential is permitted in principle and there is no requirement for a mix of uses on each site. The wording of the MRE zoning objective states support for commercial development and an appropriate quantum of residential uses. The previously assembled landholding (land registry documentation submitted) now comprises a part that is a Petrol Filling Station and so a mix of uses has been provided. There is no commercial viability in providing a mixed use scheme at this location and throughout the wider MRE lands there is a significant proportion of commercial/industrial development. Other sites in the MRE (ME) zoning have been permitted with mostly residential uses. In terms of urban design and permeability, the site provides frontage to the road, new public open space and pedestrian access to the existing public open space.

Legal opinion explains that the Board are not bound by section 37(2)(b) of the PDA concerning material contravention. The applicant has provided the basis for how the Board can grant permission in accordance with section 37(2)(b) if that should be the case.

- Reason 2 – The applicant has prepared an Architectural Review of the Planning Decision. The report explains that this is a suitable location for an apartment scheme and is far less bulkier than the previously permitted development. The comments of the Council's Architect have been taken into account with regard to proposed amendments. The applicant has submitted

an 'Option B', that comprises a number of minor amendments, significant changes include: omission of four 1 bedroom units in order to improve sunlight availability and reduce massing, 227 sqm roof garden, balcony screening and other elevational changes. Option B amounts to 119 units in total and updated reports and documents accompany the appeal.

- Reason 3 – With reference to external noise, to further improve the impact from urban generated noise, balconies are to be provided with glass screens instead of metal railings. Sunlight to communal spaces is to be improved by reducing overall height. Internal noise can be addressed by selection of appropriate building materials as required by various guidelines, such as acoustic glazing and ventilation. The overall scheme is fully in accordance with the advice contained in BS8233 and ProPG. An updated technical report has been prepared by AWN Consulting.
- Reason 4 – A courtyard development of up to five storeys is not particularly challenging in terms of sunlight/daylight provision. Between 23 and 38 metres of separation distance is proposed between apartments. The central courtyard has been re-tested with reference to Option B and results in 54.6% of the communal open space in receipt of in excess of two hours sunlight as per BRE guidance. In addition, the new roof garden will receive a 100% level of sunlight.

## **8.2. Planning Authority Response**

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

- The pre-application process is highlighted with respect to the issue of mixed uses on the site and the importance of same.
- PA support the development of this site, but with a mix of uses and of a higher architectural quality.
- The development will negatively impact the character of the area and is not the type of building desired by the PA for this location.
- Even after consideration of Option B submitted in the grounds of appeal, the opinion of the PA is to refuse permission for the same reasons.

- If permitted a section 48 condition should be attached and the security bonds as necessary.

### **8.3. Observations**

8.3.1. There are two observations recorded on the appeal file that may be summarised as follows:

- Anne James – the matters raised in the initial submission on the planning application are reiterated and include: zoning contravention, site topography and building height, insufficient parking, open space encroachment, traffic congestion and lack of traffic calming, lack of pedestrian access points, lack of access to the business park, possibility of traffic conflicts.
- Laura Cunningham – in addition to the issues raised above, as follows: lack of community infrastructure, lack of open space, sustainability and climate action shortcomings.

### **8.4. Further Responses**

None.



## 9.0 Assessment

9.1.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The planning authority refused permission on zoned land for four reasons to do with residential composition of the development, design/scale/mass/bulk and external finish, noise and residential amenities. Having examined the application details and all other documentation on file, including all of the report/s of the local authority, observer's submissions, having inspected the site, and having regard to the relevant policies and guidance, I consider that the substantive issues in this appeal to be considered can be grouped as per the reasons for refusal and are as follows:

- Reason 1 – Principle of Development
- Reason 2 – Design
- Reason 3 – Noise
- Reason 4 – Residential Amenities - Communal Courtyard
- Conditions
- Other Matters

### 9.2. Reason 1 – Principle of Development

9.2.1. The first reason for refusal criticises the composition of the development in terms of the MRE zoning objective. The planning authority maintains that a mix of commercial and residential development should pertain to the site and as the proposal is entirely residential, it would materially contravene the development plan. The applicant disagrees and explains that the zoning objective does not explicitly state a requirement for commercial/residential mix, residential development is permitted in principle and suitable for the location. In their response to the grounds of appeal, the planning authority reiterate their concerns about residential as the single use for this site. I note that the planning authority's reason for refusal states that the proposed development materially contravenes the Metro and Rail Economic Area (MRE) zoning objective for the lands concerned. The zoning objective indicates that residential uses are permitted in principle, in my view, it is not accurate to use the term "materially contravene" in terms of normal planning practice. The Board should

not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.

- 9.2.2. The appeal site is located on lands that are subject to zoning objective Metro and Rail Economic Area (MRE). The objective of the MRE zoning is to facilitate opportunities for high-density mixed-use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro and Rail Economic Corridor. Residential is a land use that is permitted in principle in the MRE zoning objective, but the planning authority are of the view that each site should comprise a mix of employment generating and residential activity. In this regard the previously permitted development on the site provided a combination of commercial and residential uses, F19A/0521 and ABP-307526-20 refers. However, that application was permitted under the previous development plan and different circumstances apply.
- 9.2.3. Taking the wording and intention of the zoning objective, it is apparent that flexibility is the key function of the MRE zoning. At a very high level the MRE zoning encompasses a large amount of land along the route of a Metro Line. It is logical to expect higher density development in these areas, whether that be employment or residential uses. In my mind that is precisely what the MRE zoning allows for, on the one hand employment uses are supported and the other, residential development is also accounted for. To follow the logic applied by the first reason for refusal, all developments must entail some form of mix, but this is not explicit in the wording of the MRE objective. If that were the case, proposals for employment uses alone would contravene the zoning objective if they did not include some residential uses and vice versa, this is simply not practical.
- 9.2.4. Delving deeper into the vision of the MRE zoning objective, I can see that at no point is it the intention of the objective to facilitate mixed use development alone. It is rather the intention of the objective to provide all forms of complementary development (employment, commercial and residential) within exemplary urban design and good connections amongst other good planning attributes. That is not to say that there are other areas close to the route of the metro line that do single out certain land uses, for example; open space (OS) and residential (RS).

9.2.5. The planning authority desire a mixed use development at this site, but in hypothetical terms, would that mean that an office block of the same proportions, without any residential uses, would also be refused. However, it is the zoning objective that guides development and inspires certainty in the planning process. In this instance the MRE zoning, upon my reading and that of the applicant, is that residential uses are permitted in principle. There are no exceptions, no clauses to take into account, the zoning objective is clear and unambiguous in its simplicity. Given that residential uses are permitted in principle and there are no qualifiers, I am not satisfied that any contravention of the development plan, material or otherwise, would occur if the development were permitted.

### 9.3. Reason 2 – Design

9.3.1. The second reason to refuse permission issued by the planning authority is in relation to the design merits of the overall scheme, or at least the lack of same. It is the view of the planning authority that nearly every aspect of the proposed design is not acceptable at this location, where a more exemplary form of landmark building is desired. The visual dominance is criticised, and this would be contrary to Policy SPQHP35 and SPQHO34 and the new density guidelines. The applicant disagrees and commends their design as the most appropriate for this corner location, and is in any case, better than the previous proposal on the site. The applicant admits that the comments made by the Council's Architect have been taken on board and an 'option B' is proposed, that omits four units and allows greater levels of sunlight to the central courtyard. The planning authority have commented on 'option B' advanced by the applicant and are still positive that the development even as amended would not meet the standards of the development plan for this area. In their response to the grounds of appeal, the planning authority reiterate their concerns about the design as well as the scale, mass and bulk of the proposal even after consideration of 'option B'. Finally, observers are critical of the scale of development and are not satisfied that it fits in with the surroundings.

9.3.2. The design of a building is a subjective matter and is open to interpretation. To help, the second reason for refusal states that it is the design as well as the scale, mass and bulk that causes offence. In addition, the external finishes selected on such a dominant structure are at odds with the area in general. The objectives of the MRE zoning are outlined, where a combination of urban design and public realm are

mixed with the value attributed to good architectural features, all of which should add to the character of the area. Finally, quality and residential density have not been matched to national guidance or integrated with existing development, policies SPQHP35 and SPQHO34 of the development plan refer.

- 9.3.3. Firstly, it is necessary to provide background to the site and its surrounds. I have detailed the description of the site and its location in section 1.0 of my report. The site is large and wedged between public open space to the west, a busy road to the south and an access lane to a service station to the east and Swords Business Park to the north. Swords town centre is located less than a kilometre to the west. The character of the area is a broad mix of development and with little urban design input over the years. As you approach the site from the south and east, the roads are wide, punctuated by roundabouts and with development set very much back from the road edge. The scale of development rises up to three storeys in terms of apartment blocks and two storey houses set in cul-de-sac estates. Building finishes are a combination of buff or red brick, plaster finishes predominate and on the whole roofs are pitched. The office and commercial development in Swords Business Park to the north is clearly of a different character, but brick, glass and plaster are common materials and buildings up to three storeys are not uncommon.
- 9.3.4. The immediate area has no stand out urban character attributes other than being similar to other parts of the suburbs in this eastern area of Swords. This is not a criticism it is just an observation of how the eastern suburbs have evolved over the years. There is nothing particularly unpleasant about the area, pedestrian facilities are standard enough, but roads infrastructure dominates, and the urban grain is not as fine as it could be. The site is not designated for a landmark building and there is no specific zoning objective for this site as a node or point of interest. The MRE zoning seeks to put some urban design manners on the area in general and leaves it open to interpretation as to what is right for the site, the MRE vision statement refers. The crux of the matter in this appeal is that the planning authority do not like what they see and the applicant disagrees.
- 9.3.5. Permission already exists on this site for a mixed use commercial development, ABP-307526-20 refers. The Board approved the overall design of building blocks up to six storeys, with the omission of block C and the consequent reduction in dwelling units to 128. The Board Order was signed in November 2020, so this permission can

still be implemented. The overall design of this scheme is not too dissimilar to the proposal now before the Board, just in terms of height, scale and massing alone. For a comparison I point the Board in the direction of the applicant's Architectural Design Statement and section 2.5 of the report in particular. The applicant points out that they took into account the LRD Opinion and refined the current proposal to react to the points raised. In addition, the applicant explains that the particular comments raised by the Council's Architect's Department have been taken on board in the grounds of appeal and further changes have been implemented that result in 'option B'.

- 9.3.6. It is most relevant in this instance to take into account the Council's Architect's Department report. In broad terms the combination and distribution of building finishes is criticised and specific instructions to lower a 2.35 metre high parapet wall along the street edge is emphasised. I agree with these statements. The Council's Architect is not critical of the overall height, scale and massing of the development as proposed. The overall design is complimented for its improvements during the LRD process with the exception of some remaining daylighting of the courtyard space, but a solution is offered.
- 9.3.7. This brings me back to the overall vision of the MRE zoning objective and its emphasis on good urban design and public realm. In that context, I note the detail contained in the applicant's Architectural Design Statement and the grounds of appeal. These documents clearly set out the urban design principles applied to the site and compliance with the variety of advice set out in national guidance (see section 6.0 of my report and sections 3.0 and 4.0 of the Architectural Design Statement that both refer.
- 9.3.8. In terms of the height, scale and massing of the development proposed, I can see that a similarly dimensioned development has already been permitted on the site. The applicant explains how the development will be provided in a courtyard block arrangement ranging in height from part 4 to part 5 storeys. In this regard, I note that the previous scheme was 6 storeys of residential uses with a 5 storey commercial element. In design terms, improvements have been made and this is verified by the Council's own Architect's Department, with the exception of some design amendments that have been broadly addressed by option B advanced by the applicant. Detailed matters to do with building finishes can be addressed by

condition if needs be. I am satisfied that in relation to height, scale and massing there is very little to separate what is already granted permission on the site and what is now proposed. I can see that refinements have been made and the proposed development will result in a better street frontage. This new built edge will go some way to urbanising the R106, which at present is overly designed for motorised vehicles rather than more vulnerable road users. As an entry point to the outskirts of Swords this is a good location to densify and upscale development, after all the site is located within the corridor of a proposed metro line. This means that the most sustainable use of land should be considered. The public realm improvements that follow, will encourage greater use of the street environment, making for a safe and convenient walk to services located in the town centre to the west and linkages through to the business park to the north.

- 9.3.9. I consider the principle of residential development to be acceptable on this site. I am of the opinion that this is a zoned, serviceable site within an established urban area where a wide range of services and facilities exist. In my opinion, the proposal will provide a high quality development, with an appropriate mix of apartment units and an acceptable density of development. I am satisfied that the proposal will not impact on the visual or residential amenities of the area, to such an extent as to warrant a refusal of permission. Specifically, the choice of brick as the predominant building finish is suitably robust and attractive at this location, other finer details can be agreed by condition. The new and improved public realm is responsive to the needs of pedestrians and cyclists, that it is hoped will avail of this route to and from locally available services. I am satisfied that the proposed development will bring a more urban character to the area that will in turn improve the quality of the R106 as an urban street rather than a vehicle dominated road.

#### 9.4. **Reason 3 – Noise**

- 9.4.1. The third reason for refusal relates to Objective DMSO246 – Apartment Developments and Noise Transmission, noise impacts and poorly conceived mitigation measures. The applicant states that balconies have been improved, the central courtyard now receives better lighting and specific internal and external material selection further improves matters. To conclude the applicant prepared a Technical Note that demonstrates the overall scheme is fully in accordance with the advice contained in BS8233 and Professional Planning Guidance (ProPG).

- 9.4.2. Objective DMSO246 – Apartment Developments and Noise Transmission, states the following:

*All apartment developments should be designed as to ensure noise transmission between units and from external or internal communal areas is minimised. Guidance for noise reduction in building is set out in BS 8233:2014*

- 9.4.3. With reference to the Technical Note prepared by Awn Consulting, their analysis is based upon the amendments made by the applicant, i.e. better sunlight to central courtyard, new roof garden and glazed screening to balconies. In addition, the report refers to BS 8233:2014, Professional Planning Guidance (ProPG) and BS EN12354/3, and their relevance to the proposed development. The Technical Note concludes that the majority of private open spaces achieve best practice levels. However, those balconies that face onto roads understandably receive higher than desirable noise levels but this is mitigated by glazed balconies and a better private central courtyard space. This offset approach is acceptable according to BS8233 and as for internal noise concerns they can be addressed by glazing and ventilation improvements.
- 9.4.4. Firstly, I note that in their response to the grounds of appeal, the planning authority do not reiterate their original concerns with regard to noise impacts and 'option B' advanced by the applicant. Instead, the primary concern is still the overall building design and mix of uses. The applicant has prepared material that responds to the issues raised by the Report of Air & Noise Section of the Council and directly to their concerns with regard to screening and closed window/vent design.
- 9.4.5. From my observations of the site, it is not surprising that road noise is a factor to consider for any development in this area, with the R106 immediately to the south, the M1 in a cutting to the east and Dublin airport further to the south. In fact, and as pointed out in the Technical Note and BS guidance generally, traffic noise is not an uncommon feature of cities and towns. Moreover, British Standard guidance that Objective DMSO246 refers to advice that a compromise between elevated noise levels and sustainable land use factors should be considered. In addition, the lowest practicable levels should be strived for in terms of amenity spaces and that screening of balconies should be considered.

9.4.6. The site is located in an urban context with well used traffic routes nearby, the lands are zoned for either employment or residential uses and so it is appropriate that that any development of the site should include measures to ensure amenity is preserved and protected. The aim of Objective DMSO246 in the development plan is to direct applicants to properly consider various factors that relate to noise and residential amenity. The site is not particularly unusual in terms of its location and the noise generating factors that define urban locations such as these. I am satisfied that the applicant has given adequate consideration to issues that revolve around noise and residential amenity. I am satisfied that the development as proposed and amended is not contrary to Objective DMSO246 and subject to an appropriately worded condition the measures outlined in the Technical Note prepared by AWN Consulting and the refinements set out in 'option B', will ensure an appropriate standard of residential accommodation on a site with such urban characteristics.

**9.5. Reason 4 – Residential Amenities – Communal Courtyard**

9.5.1. The fourth and last reason for refusal relates to residential amenity with specific reference to the proposed courtyard area, the concern is the degree to which it will be overshadowed and how this will impact future residents. No other aspect to do with residential amenities are raised as an issue, other than the matters already covered in reason three with reference to noise and the suitability of the courtyard area, again connected with sunlight. The applicant points out to 'option B' whereby four units are to be omitted, this will provide improved sunlight penetration to the courtyard area, a Site Planning for Daylight and Sunlight report has been prepared to demonstrate this. In response to the grounds of appeal, the planning authority did not counter the applicant's option B proposal in terms of residential amenity improvement and the courtyard space.

9.5.2. The initial design proposal submitted by the applicant provided a communal courtyard space, at the centre of a perimeter block plan. An additional kickabout, social and children's play area is proposed at the northern portion of the site. The central courtyard area is important as it provides a sheltered communal space for residents, shielded from traffic noise and wind. For this space to be successful, the space must receive an adequate amount of direct sunlight and daylight generally. The initial proposal was deemed appropriate by the applicant, but not by the planning authority and permission was refused on the basis that the central



courtyard would not receive adequate levels of sunlight, Figure 34 - Amenity Area Sunlight Analysis of the Site Planning for Daylight & Sunlight report refers.

9.5.3. The applicant has revisited the issue of the central amenity area and thought about how to improve matters with specific reference to sunlight. To this end, four units will be removed at the south western corner of the perimeter block and a revised Site Planning for Daylight & Sunlight report has been prepared as part of the grounds of appeal. I have compared the results for both scenarios, I can see that matters have indeed been improved, and the central courtyard area will receive more sunlight if the four units identified are removed. In more detail, the comparison is as follows: initial communal area C (the central courtyard area) 47.8% of the total area will receive at least 2 hours of sunlight during the March equinox. Option B, communal area A (the central courtyard area) 54.6% of the total area will receive at least 2 hours of sunlight during the March equinox, and this meets BRE targets. The applicant also explains that bike racks will be located in the shaded part of the courtyard area and that active and passive uses are positioned where most sunlight will be. A rooftop garden is proposed in place of apartment units 405, 406, 407 and 408 and this space will receive high levels of sunlight in addition to an already adequate array of communal amenity space.

9.5.4. I have examined the documentation prepared by the applicant and I note that though the initial central courtyard was well conceived it did not meet the requirements of at least 50% of the area in receipt of direct sunlight at the spring equinox. The initial proposal failed to meet this requirement by a small margin and though other amenity spaces are provided, the central courtyard provides a very important focus for a successful communal open space. With this in mind, it is entirely appropriate that the applicant should revise matters and seek an improvement to how this central courtyard is a beneficial amenity for future occupants. The omission of four units at the south western corner of the perimeter block is a simple concession and it has yielded a positive result. I am satisfied that 'option B' provides an adequate level of sunlight to penetrate the central courtyard space. The resultant rooftop garden will provide what should be considered as a bonus space in addition to everything else already provided and it will require careful management. Given, the separation distances involved and the fact that apartment units with open balconies were

already proposed at this location, I do not anticipate that any adverse residential amenity impacts will result to neighbouring property.

- 9.5.5. The development as proposed in 'option B' that omits four units on the fourth floor addresses the issues raised in both reason three and four. The residential amenity for future residents in terms of communal open space will be improved and exceeds the necessary advisory standards with specific reference to the principles of Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice – (Building Research Establishment Report) 2011, section 14.6.6.1 Daylight and Sunlight of the development plan refers. I am satisfied that the fourth reason for refusal has been overcome and that an appropriately worded condition can ensure that 'option B' as tabled by the applicant should be implemented in full.

#### 9.6. **Conditions**

- 9.6.1. In the previous sections of this report, I have outlined where specific conditions may be required to address matters raised in the appeal. No further repetition is either warranted or necessary.
- 9.6.2. The planning authority have recommended the addition of bond/contribution conditions and these should be attached as a matter of course. The planning authority have requested the attachment of a financial contribution with respect to any shortfall in public open space or play space. According to the report of the Parks and Green Infrastructure Division of the Council, there is a shortfall in public open space of 2%, mostly due to site specific factors. In this instance the attachment of a condition in accordance with Objective DMSO51 of the development plan, a financial contribution in lieu of the provision of public open space on-site should be sought, in accordance with section 48 of the 2000 Act. With reference condition 22 that refers to limiting the first occupation by individual purchasers i.e. those not being a corporate entity, is applicable in this instance as ground floor apartments are considered to be own door units and would qualify under this requirement. All other planning conditions that I recommend and set out in section 13.0 of my report are standard and technical in nature and common to most large scale residential developments on zoned and urban land. In addition, where internal reports of the Council recommend the attachment of specific conditions, they are also included in the schedule of conditions as listed in section 13.0.

## **9.7. Other Matters**

- 9.7.1. The planning authority raised no issues with regard to the internal and external apartment standards for future residents. The provision of one and two bedroom apartments (one bed 45% and two bed 55%) complies with SPPR1 regarding housing mix, a set out in the Design Standards for New Apartments (2023) and this is noted as acceptable by the planning authority. No issues were raised about the impact of the proposal on the existing residential amenities of neighbouring development. The primary reasons for refusal and the adverse findings of the planning authority report and response to the grounds of appeal all relate to the Principle of Development, Design Acceptability, Noise and Residential Amenities specifically the Communal Courtyard. I have dealt with all of these issues in the preceding sections of my report. The applicant has prepared a large number of documentation that explains how the development meets the relevant standards to do with apartment development and I am satisfied that there is no further examination required or warranted in this instance. Observers have raised issues in addition to the matters that have been discussed in the previous sections of my report. I now deal with these additional issues as follows:
- 9.7.2. Public Open Space Encroachment – concerns are expressed that the public open space associated with Seamount Estate should remain exclusive to existing residents. The proposed development provides for its own quantum of open space that does not quite meet the requirements of the development plan, a condition is recommended. I have visited the Seamount Estate open space and note that is not well overlooked by adjacent residents but appears well maintained and used to some degree. The space is readily accessed from the estate roads and the Malahide Road to the south and the proposed development seeks to create a link directly into the existing public open space. There is a wide and mature belt of trees at the margins of the Seamount Estate open space and this will remain in situ. The proposed apartment block is positioned further east of these trees but may provide the benefits of passive overlooking. The benefits of passive overlooking of public open spaces cannot be underestimated and I do not anticipate any loss of residential amenity, quite the reverse, I anticipate that the Seamount Estate open space will become a safer place if the development proceeds.

- 9.7.3. Traffic and Transport – Observers are concerned about the traffic and transport implications of the development. Traffic conflicts are anticipated and the level of car parking is criticised. Firstly, I note that the applicant has prepared a number of transport and traffic related reports and documents, including: Engineering Services Report, Traffic Assessment & Parking Strategy, DMURS Statement of Consistency, Mobility Management Plan, and a Stage 1 Road Safety Audit. Secondly, I note the Report of the Transportation Planning Section in which very few aspects of the proposed development caused alarm. With reference to parking, the proposed development is within ‘Zone 1’ of the parking zones set out in the development plan. With a provision of 24 spaces, this is below the maximum level of 61 set out in the Table 14.19: Car Parking Standards of the development plan, this is an acceptable quantum of car parking given the accessible location qualities of the site. The Transportation Planning Section of the Council recommended a number of conditions to do with the technical standards of the planning authority with respect to footpaths, taking in charge and DMURS. I am satisfied that all these matters can be addressed by condition. The proposed development is located within the corridor of a proposed metro rail line, close to employment and commercial centres and adjoining a road network with numerous bus services passing the site.
- 9.7.4. On balance, the proposed development is located at a well-served suburban location close to a variety of amenities and facilities. The site of the proposed development is within 800m (950m walking distance) of a proposed Metrolink station and a 1500m (1700m walking distance) of a proposed Busconnects Core Bus corridor. Current public transport options are limited to low and high frequency bus services without defined bus corridors but this may change once a metro comes into play. At present however, there are good cycle and pedestrian facilities in the area and the proposed development will add significant improvements to the public realm in this respect. It is inevitable that traffic in all forms will increase as more housing comes on stream. However, I am satisfied that most of the ingredients are in place to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport and this can be achieved by the implementation of the mobility management plan and car parking strategy submitted by the applicant.
- 9.7.5. Climate Action – An observer raised a query about the proposed development and the environmental sustainability of the entire project and recommends that solar

panels should be installed and greater emphasis should be placed on SuDS. From an examination of the applicant's planning application documentation, I can see that the following documents all refer to environmental responsibility, sustainability and climate change: Engineering Services Report, Climate Action Energy Statement, External Public Lighting Report, Environmental Impact Assessment Screening Report, Construction & Environmental Management Plan, Operational Waste Management Plan, Resource and Waste Management Plan and a Life Cycle Report. All of these documents have in some form or other taken climate change factors into account and examined the how the best sustainability choices can be made. At a very high level, the site is located on lands zoned for commercial/residential uses, close to all the services and facilities of Swords town centre and using the most appropriate technologies in the construction and operation of the development including SuDS and roof mounted photovoltaic panels. I am satisfied that the proposed development broadly meets sustainability and climate action objectives, and no shortcomings are evident.

- 9.7.6. Water Services – I note that Uisce Éireann confirm that a Confirmation of Feasibility and a Statement of Design Acceptance has been issued, water and wastewater connections are feasible without upgrades. In addition, I note that the Report of the Water Services Department of the Council deem the development to be acceptable from a surface water management and flood risk perspective, conditions are recommended.

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

- 10.1. I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

- 10.2. This conclusion is based on:

- Objective information presented in the applicant's Appropriate Assessment Screening Report;
- The limited zone of influence of potential impacts;

- Standard construction and operational surface water pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same;
- Distance from European Sites;
- The nature of the existing site, that comprises dense grassland and scrub;
- The limited potential for pathways to any European site; and
- The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.

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

## 11.0 Recommendation

Following from the above assessment, I recommend that permission is GRANTED for the development as proposed due to the following reasons and considerations, and subject to the conditions set out below.

## 12.0 Recommended Draft Board Order

**Planning and Development Act 2000, as amended**

**Planning Authority:** Fingal County Council

**Planning Authority Register Reference:** LRD0025/S3E

**Appeal** by Bartra Propco No. 23 Limited against the decision made on the 20<sup>th</sup> day of November 2024 by Fingal County Council to refuse permission to Bartra Propco No. 23 Limited, c/o of Thornton O'Connor Town Planning, 1 Kilmacud Road Upper, Dundrum, D14.

### **Proposed Development**

Large-scale residential development (LRD), comprising:

123 dwelling units in a single perimeter block building on a site of 0.8731 Hectares

55 one bed apartments

68 two bed apartments

The development will be provided in a courtyard block arrangement ranging in height from part four to part five storeys (19.27 metres).

The proposed development will provide: vehicular access from the road to the east; 24 car parking spaces; bicycle parking spaces; motorcycle parking spaces; pedestrian/cycle entrances at the southwest and north of the site, and along the western boundary connecting into the adjoining open space; a footpath and bicycle path around the south, east and north of the site perimeter and a shared cycle/pedestrian path along the western boundary;

Communal and public open spaces comprising hard and soft landscaping; boundary treatments; green roofs; lift overrun; PV panels; lighting; ESB substation; switchroom and plant.

## **Decision**

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

## **Reasons and Considerations**

In coming to its decision, the Board had regard to, and as relevant been consistent with, the following:

- a) Policies and objectives set out in the National Planning Framework 2040 and the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031.
- b) Policies and objectives set out in the Fingal Development Plan 2023-2029, including the location of the site on lands subject to Zoning Objective 'MRE' - 'Facilitate opportunities for high-density mixed-use employment generating activity and commercial development, and support the provision of an

appropriate quantum of residential development within the Metro and Rail Economic Corridor' and the permitted uses therein.

- c) Fingal County Council Development Contribution Scheme 2021-2025.
- d) Housing for All, A New Housing Plan for Ireland, 2021.
- e) Climate Action Plan, 2024.
- f) National Biodiversity Plan 2023-2030.
- g) Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024.
- h) Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2023.
- i) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018.
- j) Design Manual for Urban Roads and Streets, 2013, updated 2019.
- k) Childcare Facilities, Guidelines for Planning Authorities, 2001.
- l) Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009.
- m) Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023.
- n) Development Management, Guidelines for Planning Authorities, 2007.
- o) The nature, scale, and design of the proposed development.
- p) The availability in the area of a range of existing and planning social, community, and transport infrastructure.
- q) The pattern of existing and permitted development in the area.
- r) The planning history at the site and within the area.
- s) The reports of the planning authority.
- t) The submissions received by the planning authority from observers and prescribed bodies.
- u) The grounds of appeal and observations.



- v) The responses to the grounds of appeal by the planning authority and the applicant.
- w) The report and recommendation of the Planning Inspector including the examination, analysis and evaluation undertaken in relation to Appropriate Assessment and Environmental Impact Assessment.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise (Stage 1) in relation to the potential effects of the proposed development on designated European sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, the distances to the nearest European sites, and the absence of any direct hydrological connections, submissions and observations on file, the information and reports submitted as part of the application and appeal, and the Planning Inspector's report. In completing the screening exercise, the Board adopted the report of the Planning Inspector and concluded that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that an Appropriate Assessment (Stage 2) and the preparation of a Natura Impact Statement would not, therefore, be required.

### **Environmental Impact Assessment Screening**

The Board completed an Environmental Impact Assessment screening determination of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents submitted by the applicant identify and describe adequately the direct, indirect, and cumulative effects of the proposed development on the environment.

Regard has been had to:

- a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.

- b) The location of the site on zoned lands (Zoning Objective 'MRE' - 'Facilitate opportunities for high-density mixed-use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro and Rail Economic Corridor'), and other relevant policies and objectives in the Fingal Development Plan 2023-2029, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).
- c) The infill nature of the site and its location in an urban neighbourhood area which is served by public services and infrastructure.
- d) The pattern of existing and permitted development in the area.
- e) The planning history at the site and within the area.
- f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- g) The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government (2003).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction Environmental Management Plan, Ecological Impact Assessment, Arboricultural Assessment & Impact Report, Site Specific Flood Risk Assessment (Chapter 6 of the Engineering Services Report), Noise and Vibration Impact Assessment, and Mobility Management Plan.

In so doing, the Board concluded that by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the

preparation of an Environmental Impact Assessment Report would not, therefore, be required.

### **Conclusion on Proper Planning and Sustainable Development**

The Board considers that, subject to compliance with the conditions set out below, the proposed development would be consistent with the applicable 'Zoning Objective 'MRE zoning objective that seeks to facilitate opportunities for high-density mixed-use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro and Rail Economic Corridor, and other policies and objectives of the Fingal Development Plan 2023-2029, would appropriately intensify the residential use at the site, would constitute an acceptable mix and quantum of residential development, would provide acceptable levels of residential amenity for future occupants, would not seriously injure the residential or visual amenities of property in the vicinity, would not cause adverse impacts on or serious pollution to biodiversity, lands, water, air, noise or waste, would be acceptable in terms of pedestrian, cyclist and traffic safety and convenience, and would be capable of being adequately served by water supply, wastewater, and surface water networks without risk of flooding. 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 to the planning authority on the 26<sup>th</sup> day of September 2024, as amended by the plans and particulars received by An Bord Pleanála on the 16<sup>th</sup> day of December 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The development permitted by this Order is for the construction of 119 dwelling units as amended by the drawings submitted to the Board on the 16<sup>th</sup> day of December 2024 and entitled 'Option B'.

Reason: In the interest of clarity, residential amenity and sustainable development.

3. Mitigation and monitoring measures outlined in the plans and particulars, including the Construction Environmental Management Plan, Ecological Impact Assessment, Arboricultural Assessment & Impact Report, Site Specific Flood Risk Assessment (Chapter 6 of the Engineering Services Report), Noise and Vibration Impact Assessment (updated by Technical Note dated 9<sup>th</sup> December 2024), and Mobility Management Plan, submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

4. (a) All entrance doors in the external envelope shall be tightly fitting and self-closing.

(b) All windows shall be double glazed and tightly fitting.

(c) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect residential amenity.

5. a) Prior to commencement of development, proposals for a development name and numbering scheme, and associated signage shall be submitted to and agreed in

writing with the planning authority. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

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

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

6. a) Details of the materials, colours, and textures of all the external finishes to the proposed buildings and boundary treatments shall be as submitted with the application, unless otherwise agreed in writing with the planning authority.

b) Details of a maintenance strategy for all external finishes within the proposed development shall be submitted for the written agreement of the planning authority. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

7. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within a finalised agreed Landscape Masterplan and Planting Schedule. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

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

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

Reason: In the interest of public health.

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

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

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

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

11. 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.

12. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the development and where required, revised plans and particulars demonstrating compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

(a) The details and the extent of all road markings and signage requirements on surrounding roads, shall be submitted to the Planning Authority for approval prior to the commencement of development.

- (b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (c) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings and car parking bays shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the planning authority for such road works.
- (d) Cycle tracks within the development shall be in accordance with the guidance provided in the National Cycle Manual.
- (e) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.
- (f) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

13. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

14. a) The management and maintenance of the development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being so taken in charge.

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

c) 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: In the interests of orderly development and to provide for the satisfactory future maintenance of this development.

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

Reason: In the interest of residential and visual amenity.

16. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area



enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) and hedges and identified as 'to be retained' on landscape drawings, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees and hedging which are to be retained on the site.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

17. 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 the trees on the site.

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the

developer shall employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.

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

19. The construction of the development shall be managed in accordance with a Construction and Environmental 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 compounds including areas 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 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 the location and frequency of 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) Means to ensure that surface water run-off is controlled such that no silt or other pollutants / contaminants enter local surface water sewers or drains.

l) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

m) Measure to fully remediate the site in accordance with a Construction Stage Invasive Plant Species Management plan, in advance of the commencement of construction activities.

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

20. a) An Operational Waste Management Plan (OWMP) containing details for the management of waste within the development, the provision of facilities for the storage, separation, and collection of the waste and for the ongoing operation of these facilities, shall be submitted to and agreed in writing with the planning authority not later than 6 months from the date of commencement of the development.

Thereafter, the waste shall be managed in accordance with the agreed OWMP.

b) The OWMP shall provide for screened communal bin stores for the apartment block, the locations and designs of which shall be as indicated in the plans and particulars lodged within the application unless otherwise agreed in writing with the planning authority.

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

21. 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 sections 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7)

applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

(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 of the residential units 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.

23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority and/ or management company 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.

24. (a) Prior to the commencement of development the developer shall submit, for the written approval of the planning authority, revised drawings and associated schedules which clearly indicate the location and sizes of the public open space and environmental open space.

(b) If any shortfall in public open space is identified the developer shall pay to the planning authority a financial contribution as a contribution in lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority which is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under section 48 of the Planning & Development Act, 2000 (as amended). The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any indexation provisions of the Scheme at the time of payment.

Reason: In the event of a shortfall in the provision of public open space it is a requirement of the Planning & Development Act, 2000 (as amended), that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act (as amended) be applied to the permission.

25. 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.

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Stephen Rhys Thomas  
Senior Planning Inspector

12 February 2025

## 14.0 List of Appendices

### 14.1. Appendix 1 - Environmental Impact Assessment (EIA) Pre-Screening

<b>An Bord Pleanála</b>	ABP-321455-24		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Construction of 123 dwellings		
<b>Development Address</b>	A site fronting the Swords to Malahide Road (R106), Mountgorry, Swords, Co. Dublin.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	✓		Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			



<b>No</b>	✓		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	✓	<p>10. Infrastructure projects,</p> <p>(b)(i) Construction of more than 500 dwelling units.</p> <p>And</p> <p>(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p>	<p>Preliminary examination required (Form 2)</p> <p>The applicant has prepared an Environmental Impact Assessment Screening Report, that complies with the requirements set out by Schedule 7 to the Planning and Development Regulations, 2001 as amended, specifically items required by schedule 7A.</p>

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

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

14.2. **Appendix 2 – Environmental Impact Assessment (EIA) Screening Determination**

<b>A. CASE DETAILS</b>		
<b>An Bord Pleanála Case Reference</b>	ABP-321455-24	
<b>Development Summary</b>	Construction of 123 dwellings	
	<b>Yes / No / N/A</b>	<b>Comment (if relevant)</b>
<b>1. Was a Screening Determination carried out by the PA?</b>	Yes	
<b>2. Has Schedule 7A information been submitted?</b>	Yes	The applicant prepared a document entitled 'Environmental Impact Assessment (EIA) Screening Report', prepared by a technical team of suitably qualified and competent persons.
<b>3. Has an AA screening report or NIS been submitted?</b>	Yes	AA Screening Report
<b>4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?</b>	No	
<b>5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to</b>	Yes -	Other assessments carried out include: <ul style="list-style-type: none"> <li>An Environmental Impact Assessment Screening Report</li> </ul>

<p>other relevant Directives – for example SEA</p>		<p>(EIASR) which considers the EIA Directive (2011/92/EU, as amended by 2014/52/EU).</p> <ul style="list-style-type: none"> <li>• An Ecological Impact Assessment (EclA) which considers the Habitats Directive (92/43/EEC), Birds Directive (2009/147/EC), and content of Water Framework Directive (2000/60/EC).</li> <li>• A site-specific Flood Risk Assessment (FRA) which considers the content of the EU Floods Directive (2007/60/EC).</li> <li>• An Operational Waste Management Plan (OWMP) which considers the content of the Waste Directive (2008/98/ED as amended by 2018/851).</li> <li>• A Climate Action and Energy Statement which considers the content of the Energy Performance in Buildings Directive (2010/31/EU).</li> </ul> <p>SEA was undertaken by the planning authority in respect of the Fingal Development Plan 2023-2029, as varied.</p>
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B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant)  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)  <b>Mitigation measures</b> —Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment?  Yes/ No/ Uncertain
This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith			
<b>1. Characteristics of proposed development</b> (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of residential units on zoned lands. The nature and scale of the proposed	No

		development reflects the surrounding pattern of development.	
<b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposal will develop an existing brownfield site within the existing built up area. The proposed development is not considered to be out of character with the existing and emerging surrounding pattern of development.	No
<b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of an urban environment. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant	No
<b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuel and other substances. Such use will be typical of construction	No

		<p>sites. Any impacts would be local and temporary in nature and the implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	
<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	Yes	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other substances and will give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and the implementation of a Construction Environmental</p>	No

		Management Plan will satisfactorily mitigate potential impacts. Operational waste will be managed via a Waste Management Plan. Significant operational impacts are not anticipated.	
<b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No	No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services within the site. No significant emissions during operation are anticipated.	No
<b>1.7</b> Will the project cause noise and vibration or release of light,	Yes	Potential for construction activity to give rise to noise and	No



heat, energy or electromagnetic radiation?		vibration emissions. Such emissions will be localised and short term in nature and their impacts will be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.	
<b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?	No	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the operation of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health. No significant	No

		operational impacts anticipated.	
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk having regard to the nature and scale of the proposed development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no SEVESO/COMAH sites in the vicinity of this location.	No
<b>1.10</b> Will the project affect the social environment (population, employment)	Yes	The redevelopment of the site will increase the local population. This is not regarded as significant given the suburban location of the site and the surrounding pattern of land use.	No
<b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	The proposed development relates to a gap site in an existing suburban environment. Permitted	No

		developments within the vicinity of the site have been subject to separate assessments. No significant cumulative impacts are anticipated.	
<b>2. Location of proposed development</b>			
<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> <li>• European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>• NHA/ pNHA</li> <li>• Designated Nature Reserve</li> <li>• Designated refuge for flora or fauna</li> <li>• Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</li> </ul>	No	<p>The project is not located in, on, or adjoining any European site, any designated or proposed NHA, or any other listed area of ecological interest or protection.</p> <p>There are indirect hydrological connections between the site and the European sites in Dublin Bay, via surface water and wastewater pathways formed by the public drainage networks, and/ or River Liffey, and the Irish Sea.</p> <p>Appropriate Assessment</p>	No

		<p>screening determination (Stage 1) (see section 9.0 and Appendix 3 of this report).</p> <p>This screening process concluded that the project would not have a likely significant effect on any European site either alone or in combination with other plans or projects.</p> <p>Accordingly, I do not consider the project likely to result in a significant effect on the environment in terms of ecological designations or biodiversity</p>	
<b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering,	No	No such species use the site and no impacts on such species are anticipated.	No

or migration, be affected by the project?			
<b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	<p>There are no landscape designations or protected scenic views at the subject site.</p> <p>There are no protected structures within or adjoining the site, and the site is not included within an architectural conservation area</p> <p>Due to the size of the site, there is moderate potential for the continued survival of archaeological material and features within the site. Further archaeological assessment, and as necessary, preservation by record and/ or in-situ, during construction could be considered.</p>	No
<b>2.4</b> Are there any areas on/around the location which contain important, high quality or	No	No such features arise in this location.	No

scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?			
<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	There are no direct connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.	No
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No	No such risks identified.	No
<b>2.7</b> Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local urban road network. There are sustainable transport options available to future residents. No significant contribution to traffic congestion is anticipated.	No
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc)	No	There are no such adjoining land uses	No

which could be affected by the project?			
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	Other projects have been identified as part of the planning history in section 5.0 of this report (i.e., relevant if granted permission). These developments are of a nature and scale that have been determined to not have likely significant effects on the environment.  No developments have been identified in the vicinity that could give rise to significant cumulative environmental effects.	No
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise.	No
<b>3.3</b> Are there any other relevant considerations?	No		
<b>C. CONCLUSION</b>			

<b>No real likelihood of significant effects on the environment.</b>	✓	EIAR Not Required
<b>D. MAIN REASONS AND CONSIDERATIONS</b>		
<p>Having regard to: -</p> <p>1. the criteria set out in Schedule 7, in particular</p> <p>k) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.</p> <p>l) The location of the site on zoned lands (Zoning Objective 'MRE' - 'Facilitate opportunities for high-density mixed-use employment generating activity and commercial development, and support the provision of an appropriate quantum of residential development within the Metro and Rail Economic Corridor'), and other relevant policies and objectives in the Fingal Development Plan 2023-2029, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).</p> <p>m) The infill nature of the site and its location in an urban neighbourhood area which is served by public services and infrastructure.</p> <p>n) The pattern of existing and permitted development in the area.</p> <p>o) The planning history at the site and within the area.</p> <p>p) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.</p> <p>q) The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government (2003).</p> <p>r) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.</p>		



s) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.

t) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the Construction Environmental Management Plan, Ecological Impact Assessment, Arboricultural Assessment & Impact Report, Site Specific Flood Risk Assessment (Chapter 6 of the Engineering Services Report), Noise and Vibration Impact Assessment, and Mobility Management Plan.

The Board concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is not required.

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

**Date** \_\_\_\_\_

**Approved (DP/ADP)** \_\_\_\_\_ **Date** \_\_\_\_\_

### 14.3. Appendix 3 – Appropriate Assessment (AA) Screening Determination

#### Screening for Appropriate Assessment

#### Screening Determination

##### 1. Description of the project

I have considered the proposal for 11 dwellings in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is located at a site fronting the Swords to Malahide Road (R106), Mountgorry, Swords, Co. Dublin., the closest designated site is located 1.1 kilometers to the north east.

The proposed development comprises the construction of 123 dwellings on an overall site of 0.879 Hectares, section 1.0 and 2.0 of my report refers. The applicant prepared a document entitled 'Appropriate Assessment (AA) Screening Report', prepared by a technical team of suitably qualified and competent persons. The planning authority conducted their own AA screening exercise and determined that a stage 2 appropriate assessment and submission of an Natura Impact Statement was not required.

No nature conservation concerns were raised in the planning appeal and no issues raised by prescribed bodies consulted.

**Vegetation and Flora** - The Site of the Proposed Development is primarily rank grassland (Dry Meadows and Grassy Verges (GS2)) habitat of varying sward height and contains common floral species.

Scrub (WS1) habitat was recorded within the north and along the west and south boundaries of the Site.

While oak (*Quercus robur*) and Norway maple (*Acer platanoides*) are present along the west of the Site, they are located outside the Site of the Proposed Development and overhang the Site.

Small pedestrian pathways along the south and the east of the Site creates Buildings and Artificial Surfaces (BL3) habitat.

No rare or protected plant species were observed during the ecological walkovers. Winter heliotrope is listed as a 'Low Impact' invasive species, while both butterfly bush and sycamore are listed as 'Medium Impact' invasive species. Sycamore is not considered to pose any risk of impacts at the Site of the Proposed Development.

**Fauna-** one vulnerable species occurred within the 10km Grid Square (O14) (Table 3). The FPO Bryophytes database was also checked for rare and protected flora records within the vicinity of the Proposed Development. No rare and/or protected bryophyte records exist within the vicinity of the Proposed Development.

Bat Survey recorded relatively low bat activity, with only two species recorded on Site, namely lesser noctule (*Nyctalus leisleri*) and common pipistrelle (*Pipistrellus pipistrellus*). These bats were recorded foraging and commuting along the treeline butting the west of the Site and over the scrub habitat along the west and south of the Site, which had continued to encroach upon the grassland habitat on Site since initial survey carried out in February 2024. Lesser noctule was the most common species recorded during this survey, with 189 calls recorded, and was primarily commuting over the Site. A total of 66 calls were recorded for common pipistrelle and this species was foraging and commuting over the scrub habitat along the west of the Site, adjacent to the treeline to the west of the Site of the Proposed Development.

**Bird Species** - Considering the variety of bird species recorded in the historical records and the habitats recorded on Site during the field surveys, it is considered that the Site contains resident and regularly occurring, locally important populations of breeding bird species protected under the Wildlife Act

**Other species** - The site is not suitable for Badger, Reptiles, Fish, or Amphibians,

**Water Services** - The proposed foul drainage and water supply infrastructure have been designed to connect to the existing public mains. Surface water - an existing surface water drainage network runs in a northerly direction along the east boundary of the Site, with an additional surface water sewer crossing the southeast corner of the Site. It is proposed that surface water run-off from the Site will

discharge to the existing surface water network located to the northeast of the Site during the Operational Phase after passing through the surface water management system outlined in the Engineering Services Report. Foul water - it is proposed to discharge foul water from the Site to the foul water sewer network to the northeast of the Site. This foul water will be treated at the Swords Wastewater Treatment Plant (WwTP) and ultimately discharged to Malahide estuary.

Further details including the implementation are included the Engineering Services Report. A confirmation of feasibility has been provided by Uisce Eireann which forms part of the Engineering Services Report.

### **Surface Water Drainage and Flood Risk –**

It is proposed that Sustainable Drainage Systems (SuDS) features will be incorporated into the Proposed Development, including:

- pervious paving underlying the car parking spaces,
- a combination of blue and green roofs to intercept and retain rainfall which will slow the rate of surface water run-off into the local surface water network,
- tree pits to collect surface water run-off,
- filter drains along the west boundary of the Site bordering the existing green space,
- a detention basin within the northeast of the Site with 100m<sup>3</sup> storage capacity prior to discharging via flow control manhole to the existing surface water network, and
- all drainage outside the building extent will pass through flow control devices prior to discharge to the local surface water drainage network.

Due to the site location, it is likely surface water from the Proposed Development will ultimately enter Malahide estuary via the local surface sewer network.

### **Sustainable Urban Drainage System (SuDS) and Nature Based Solutions (NBS)**

The storm water management for the site has been designed to incorporate Sustainable urban Drainage Systems (SuDS) and Nature Based Solutions (NBS). It is planned to manage the storm water run-off from the site as follows:

- pervious paving underlying the car parking spaces,
- a combination of blue and green roofs to intercept and retain rainfall which will slow the rate of surface water run-off into the local surface water network,
- tree pits to collect surface water run-off
- filter drains along the west boundary of the Site bordering the existing green space,
- a detention basin within the northeast of the Site with 100m<sup>3</sup> storage capacity prior to discharging via flow control manhole to the existing surface water network, and
- all drainage outside the building extent will pass through flow control devices
- prior to discharge to the local surface water drainage network.

**Flooding-** The subject site is located within Flood Zone C for coastal and fluvial risk. Pluvial and Groundwater risk assessments do not provide any indication of risk to the proposed development and therefore a detailed assessment of these flooding mechanisms is not required in accordance with the Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009). There are no significant flood risks associated with the proposed development.

## **2. Potential impact mechanisms from the project**

The potential for significant effects that may arise from the Proposed Development was considered through the use of key indicators:

- Habitat loss or alteration.

- Habitat/species fragmentation.
- Disturbance and/or displacement of species.
- Changes in population density.
- Changes in water quality and resource.

There is potential for significant effects from the proposed development at construction and operational stage in respect of the following:

### ***Construction Phase***

- Uncontrolled releases of silt, sediments and/or other pollutants to air due to earthworks.
- Surface water run-off containing silt, sediments and/or other pollutants into nearby waterbodies.
- Surface water run-off containing silt, sediments and/or other pollutants into the local groundwater.
- Waste generation during the Construction Phase comprising soils, construction and demolition wastes.
- Increased noise, dust and/or vibrations as a result of construction activity.
- Increased dust and air emissions from construction traffic.
- Increased lighting in the vicinity as a result of construction activity.

### ***Operational Phase***

- Surface water drainage from the Site of the Proposed Development.
- Foul water from the Proposed Development leading to increased loading on wastewater treatment plants.
- Increased lighting in the vicinity emitted from the Proposed Development; and
- Increased human presence in the vicinity as a result of the Proposed Development

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

### **3. European Sites at risk**

The site is not within or adjoining any Natura 2000 sites and I do not consider that there is potential for any direct impacts such as habitat loss, direct emissions, or species mortality/disturbance.

Having regard to the potential impact mechanisms from the proposal, the European site(s) and qualifying features potentially at risk (i.e. Source-Path-Receptor rather than within 15km) there are 3 Natura sites within the potential for meaningful connections, as follows:

<b>Site</b>	<b>Site Code</b>	<b>Distance</b>
Malahide Estuary SAC	000205	1.1 km
Malahide Estuary SPA	004025	1.1 km
North-West Irish Sea SPA	004236	5.5 km

In relation to the foregoing European Sites, there is a weak hydrological pathway via the Malahide Estuary, and this is deemed insignificant. There is no route by which any other sites (within 15 km) could be affected, and they are not in the zone of potential influence.

#### **Malahide Estuary SAC (000205)**

Habitats - The QIs qualifying features are as follows:

1140 Mudflats and sandflats not covered by seawater at low tide  
1310 Salicornia and other annuals colonising mud and sand  
1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)  
1410 Mediterranean salt meadows (*Juncetalia maritimi*)  
2120 Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)  
2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)

**Malahide Estuary SPA (004025)**

As per NPWS (2013b), as contained within the applicant's AA Screening Report

**SCI Birds**

A005 Great Crested Grebe (*Podiceps cristatus*)  
A046 Light-bellied Brent Goose (*Branta bernicla hrota*)  
A048 Shelduck (*Tadorna tadorna*)  
A054 Pintail (*Anas acuta*)  
A067 Goldeneye (*Bucephala clangula*)  
A069 Red-breasted Merganser (*Mergus serrator*)  
A130 Oystercatcher (*Haematopus ostralegus*)  
A140 Golden Plover (*Pluvialis apricaria*)  
A141 Grey Plover (*Pluvialis squatarola*)  
A143 Knot (*Calidris canutus*)  
A149 Dunlin (*Calidris alpina*)  
A156 Black-tailed Godwit (*Limosa limosa*)  
A157 Bar-tailed Godwit (*Limosa lapponica*)  
A162 Redshank (*Tringa totanus*)  
A999 Wetland and Waterbirds  
Additional species as per SDF update (2020a)



A017 Cormorant (*Phalacrocorax carbo*)  
A052 Teal (*Anas crecca*)  
A053 Mallard (*Anas platyrhynchos*)  
A059 Pochard (*Aythya ferina*)  
A137 Ringed Plover (*Charadrius hiaticula*)  
A142 Lapwing (*Vanellus vanellus*)  
A144 Sanderling (*Calidris alba*)  
A145 Little Stint (*Calidris minuta*)  
A147 Curlew Sandpiper (*Calidris ferruginea*)  
A151 Ruff (*Philomachus pugnax*)  
A160 Curlew (*Numenius arquata*)  
A164 Greenshank (*Tringa nebularia*)  
A165 Green Sandpiper (*Tringa ochropus*)  
A169 Ruddy Turnstone (*Arenaria interpres*)  
A179 Black-Headed Gull (*Larus ridibundus*)  
A182 Common Gull (*Larus canus*)

As per S.I. No. 285/2011

Branta bernicla hrota - Light-bellied Brent Goose

Tadorna tadorna - Shelduck

Anas acuta – Pintail

Bucephala clangula - Goldeneye

Mergus serrator - Red-breasted Merganser

Podiceps cristatus - Great Crested Grebe

Haematopus ostralegus - Oystercatcher

Pluvialis apricaria - Golden Plover

*Pluvialis squatarola* - Grey Plover

*Calidris canutus* - Knot

*Calidris alpina* - Dunlin

*Limosa limosa* - Black-tailed Godwit

*Limosa lapponica* - Bar-tailed Godwit

*Tringa tetanus* - Redshank

**North-West Irish Sea SPA (004236)**

As per NPWS (2023), contained within the applicant's AA Screening Report

**SCI Birds**

A065 Common Scoter (*Melanitta nigra*)

A001 Red-throated Diver (*Gavia stellata*)

A003 Great Northern Diver (*Gavia immer*)

A009 Fulmar (*Fulmarus glacialis*)

A013 Manx Shearwater (*Puffinus puffinus*)

A018 Shag (*Phalacrocorax aristotelis*)

A017 Cormorant (*Phalacrocorax carbo*)

A177 Little Gull (*Larus minutus*)

A188 Kittiwake (*Rissa tridactyla*)

A179 Black-headed Gull (*Chroicocephalus ridibundus*)

A182 Common Gull (*Larus canus*)

A183 Lesser Black-backed Gull (*Larus fuscus*)

A184 Herring Gull (*Larus argentatus*)

A187 Great Black-backed Gull (*Larus marinus*)

A195 Little Tern (*Sterna albifrons*)

A192 Roseate Tern (*Sterna dougallii*)

A193 Common Tern (*Sterna hirundo*)

A194 Arctic Tern (*Sterna paradisaea*)

A204 Puffin (*Fratercula arctica*)

A200 Razorbill (*Alca torda*)

A199 Guillemot (*Uria aalge*)

As per NPWS (2025)

Red-throated Diver (*Gavia stellata*) [A001]

Great Northern Diver (*Gavia immer*) [A003]

Fulmar (*Fulmarus glacialis*) [A009]

Manx Shearwater (*Puffinus puffinus*) [A013]

Cormorant (*Phalacrocorax carbo*) [A017]

Shag (*Phalacrocorax aristotelis*) [A018]

Common Scoter (*Melanitta nigra*) [A065]

Little Gull (*Larus minutus*) [A177]

Black-headed Gull (*Chroicocephalus ridibundus*) [A179]

Common Gull (*Larus canus*) [A182]

Lesser Black-backed Gull (*Larus fuscus*) [A183]

Herring Gull (*Larus argentatus*) [A184]

Great Black-backed Gull (*Larus marinus*) [A187]

Kittiwake (*Rissa tridactyla*) [A188]

Roseate Tern (*Sterna dougallii*) [A192]

Common Tern (*Sterna hirundo*) [A193]

Arctic Tern (*Sterna paradisaea*) [A194]

Little Tern (*Sterna albifrons*) [A195]

Guillemot (*Uria aalge*) [A199]

Razorbill (*Alca torda*) [A200]

Puffin (*Fratercula arctica*) [A204]

The application site is not located within or adjacent to any European site. The development site supports no habitats or species that are qualifying interests for the Natura 2000 sites so it cannot act as a reserve area in case of loss from the main site. There are no ex-situ habitat for SCI birds on site.

#### 4. Likely significant effects on the European site(s) 'alone'

Taking account of baseline conditions and the effects of ongoing operational plans and projects, the table below considers whether there is a likely significant effect 'alone' at construction and operational stage in respect of the following:

- Habitat loss or alteration (Effect A)
- Habitat/species fragmentation (Effect B)
- Disturbance and/or displacement of species (Effect C)
- Changes in water quality and resource (Effect D)
- Changes in population density (Effect E)

<u>European Site and qualifying feature</u>	<u>Conservation objective (summary) [provide link/ refer back to AA Screening Report]</u>	<u>Could the conservation objectives be undermined (Y/N)?</u>				
		<u>Effect A</u>	<u>Effect B</u>	<u>Effect C</u>	<u>Effect D</u>	<u>Effect E</u>
Malahide Estuary SAC	The Conservation objectives for the site is to maintain or restore the favourable conservation condition of the habitats and species within the site	No	No	No	No	No

Malahide Estuary SPA	To maintain or restore the favourable conservation status of habitats and species of community interest.	No	No	No	No	No
North-West Irish Sea SPA	To maintain or restore the favourable conservation status of habitats and species of community interest.	No	No	No	No	No

**Habitat Loss or Alteration (Effect A)** - The proposed development is not located within or immediately adjacent to any European sites. Therefore, there is no potential for direct habitat loss or alteration to occur as a result of the construction or operation of the proposed development.

**Habitat Fragmentation (Effect B)** - As the Proposed Development does not have the potential to directly cause habitat loss or alteration, it likewise will not result in direct habitat fragmentation.

### **Changes in Water Quality and Resource (Effect C)**

- **Surface Water** - The site will be served by the public surface water sewer system. The potential for surface water generated at the site of the proposed development to reach the designated sites listed above, and cause likely significant effects, during the Construction and/or Operational Phases, is deemed to be negligible due to:
  - Lack of any surface water bodies in the immediate vicinity of the proposed development site and the built-up nature of the intervening lands between the site and the SAC and SPA

In addition, the proposed development incorporates comprehensive SuDS measures to treat and attenuate surface water runoff to further reduce the already

negligible potential for surface water impacts. No potential for impacts to water quality and resource exists for European sites from surface water runoff or drainage from the Proposed Development.

- **Foul Water** - The proposed development will be served by separate foul water and surface water sewers during its Operational Phase. The potential for foul waters generated at the proposed development to reach these European sites and cause significant effects, during the Construction and Operational Phases, is deemed to be negligible.

**Disturbance and/or Displacement of Species (Effect D)** - No likely significant effects associated with disturbance or displacement of SCI species are likely to occur. The Site does not offer ex-situ habitat for the bird species of Special Conservation Interest (SCI) associated with the Malahide Estuary SPA (004025) due to the relatively small size of the Site, the habitats recorded on Site, and the intervening suitable ex-situ habitats between the Site and this designated site.

**Changes to Population Density (Effect E)** - For the reasons outlined above, the proposed development does not have the capacity to cause any significant changes in the population density of any species within any European Site.

The construction phase will be temporary. The application also proposes a range of measures as outlined in the Construction Environmental Management Plan (CEMP). These mainly relate to the management of soils, excavations, hydrology & hydrogeology, traffic, accidents/spills/leaks, water utilities, and dust. Consistent with my assessment above I would accept that the potential for significant effects to designated site sensitivities during the construction phase would be satisfactorily addressed by these measures.

For the operational stage, the surface water drainage network has been designed in accordance with SuDS principles. Ongoing regular operational monitoring and maintenance of drainage and the SuDS measures will be incorporated into the overall management strategy to ensure that there are no impacts on water quality and quantity. Consistent with my assessment above I would accept that the

potential for significant surface water effects to SAC sensitivities during the operational phase is negligible considering the inclusion of suitable SuDS measures and a petrol interceptor.

It is my view that these are best practice standard construction management and surface water management measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site. The measures are otherwise incorporated into the applicant's Construction Environmental Management Plan (CEMP), and other elements of the documentation and drawings submitted, and I do not consider that they include any specific measures that would be uncommon for a project of this nature. Therefore, I am satisfied that these measures can be considered in the AA Screening process.

I therefore conclude that the proposed development would have no likely significant effect 'alone' on any qualifying features of the **Malahide Estuary SAC, Malahide Estuary SPA and North-West Irish Sea SPA**.

#### **Step 5: Where relevant, likely significant effects on the European site(s) 'in-combination with other plans and projects'**

I acknowledge that other developments have a potential cumulative impact on the surface water drainage network. However, as there are no pathways connecting the project site to surrounding Natura 2000 sites and as the project will not result in significant negative impacts it will not have the potential to combine with other projects in the surrounding area to result in cumulative significant effects to the local environment or Natura 2000 sites occurring in the wider surrounding area. I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s). No further assessment is required for the project.

#### **Overall Conclusion- Screening Determination**

I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required. No nature conservation concerns were raised in the planning appeal.

This conclusion is based on:

- Objective information presented in the applicant's Appropriate Assessment Screening Report;
- The limited zone of influence of potential impacts;
- Standard construction and operational surface water pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same;
- Distance from European Sites;
- The nature of the existing site, that comprises dense grassland and scrub;
- The limited potential for pathways to any European site; and
- The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.

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