



An
Coimisiún
Pleanála

Inspector's Report ACP-323489-25

Development	Demolition of derelict shed, construction of 36 apartments and all associated site works.
Location	Lands at the junction of Rathbeale Road and Watery Lane, Swords, Co. Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F24A/1125E
Applicant(s)	Rathbeale Developments Limited
Type of Application	Planning Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party v Decision
Appellant(s)	Rathbeale Developments Limited
Observer(s)	DAA William & Bernadette Murray Philip Farrell Anna & Michael Walsh Des & Carmel Bruton
Date of Site Inspection	3 rd November 2025
Inspector	Dan Aspell

1.0 Site Location and Description

- 1.1.1. The site comprises lands at the junction of Rathbeale Road and Watery Lane, Swords. The site is generally open, with some overgrowth and small trees, and disused sheds along the northern boundary. The site slopes from the south-western corner down to the north. Main Street Swords is approx. 330m to the east.
- 1.1.2. Rathbeale Road runs along the site southern boundary. Watery Lane runs along the eastern site boundary. Adjacent the site Rathbeale Road comprises a single lane carriageway in either direction with footpaths on either side. It ranges in width from approx. 12.2–13m. Watery Lane at this point comprises a single carriageway in either direction, with footpaths either side, and a grass verge on the eastern side. Watery Lane ranges in width from approx. 10-13.2m. The site is in a 50kmh zone.
- 1.1.3. To the north there are 2-storey dwellings along Watery Lane, the closest of which is No. 22 Watery Lane. To the west are 2-storey dwellings in Rathbeale Court (Nos. 2 and 4 Rathbeale Court) and No. 21A Rathbeale Road. To the south, opposite the site across Rathbeale Road there are a mix of 2-storey and 2-storey dormer dwellings.

2.0 Proposed Development

- 2.1.1. The development as revised at further information stage generally comprised demolition of sheds and construction of apartments in two blocks. Block 1 would front onto Rathbeale Road. Block 2 would address Watery Lane. Two vehicular accesses were proposed from Watery Lane. Pedestrian access only was proposed from Rathbeale Road. Communal open space was proposed, including a roof terrace on Block 1. No public open space was proposed. The response to further information set out two options for the upper levels of Block 1. Option A was for a 3- and 4-storey block, with roof access; Option B was for a 4-storey block with a set-back 5th storey.
- 2.1.2. The application included a Transport Statement; Design Statement; Universal Access Statement; Daylight, Sunlight & Overshadowing report; Cultural Heritage Desktop Appraisal; Archaeological Impact Assessment; Ecological Impact Assessment Report; Bat Survey & Report; Lighting Impact Assessment; Outdoor Lighting Report; Tree Survey Report; Flood Risk Assessment, Natura Impact Statement, and associated architectural, engineering and landscape drawings.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Fingal County Council issued a notification to refuse permission for 3 no. reasons:

- 1: *Having regard to the site layout, limited set back from the Rathbeale Road and building height, massing and design, the proposed development would be out of keeping with the prevailing character of the area, would fail to create a sense of visual harmony and a satisfactory design response to this prominent location. The proposal would significantly detract from the visual amenity of existing residential properties and from the visual amenities of the area and would be contrary to Objective SPQHO42 of the Fingal Development Plan, which seeks to protect the character of existing residential areas that are subject to infill development. The proposal would set an undesirable precedent for similar development and would therefore be contrary to the proper planning and sustainable development for the area.*
- 2: *The development is located within an area with the 'RS' zoning in the Fingal County Development Plan 2023-2029 which has the objective 'Provide for residential development and protect and improve residential amenity'. The proposed development, having regard to the level differences across the site and within the building, inadequate setback from the Rathbeale Road, inadequate storage provision and accessibility to private amenity space, would fail to provide a satisfactory standard of amenity for future residents, would be contrary to the 'Sustainable Urban Housing: Design Standards for New Apartments' (2023) which were issued under Section 28 of the Planning and Development Act 2000, as amended, would contravene materially the 'RS' zoning objective, set an inappropriate standard for other similarly development and would therefore, be contrary to the proper planning and sustainable development of the area.*
- 3: *The Rathbeale Road bounding the site to the south is identified as a secondary cycle route in the 2022 GDA Cycle Network and as a radial cycle route in the 2022 Sustainable Swords Strategy linking the outer residential areas to Swords Town Centre. The proposed development fails to provide the required reservation and the building setback and would be contrary to Objectives*

DMSO116, CMO6 and CMO24 which seek to 'provide appropriate building setbacks along the road network to facilitate future road improvements', 'improvements to the pedestrian and cyclist environment, and 'support NTA in implementing the GDA Cycle Network' in the Fingal Development Plan 2023-2029 and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planner report: The report in response to further information recommended refusal and made a number of detailed points. I note the following:

- Principle: Apartments are acceptable in principle. Proposal is a repeat of Reg. Ref. F24A/0385 with some amendments made;
- Apartments: Housing quality assessment; mix; residential standards; floor areas; aspect; floor to ceiling heights; and private amenity spaces are adequate. Report noted Architect Department comments and made the following detailed points:
 - Internal storage: Hot presses are included in storage, however the mechanical strategy is unclear; 2023 Apartment Guidelines & Circular NSP 04/2025 state hot presses/boiler space/heat pumps will not count in general storage. This results in the apartments not meeting storage requirements. The further information does not address this. Proposal is unacceptable;
 - Universal design: Notwithstanding the universal access statement submitted there are resident amenity issues from overlooking of private amenity space and apartments due to level differences between site and Rathbeale Rd. Also mobility impaired accessibility issues for some units. This is unacceptable;
 - Amenity: Level differences and narrow setback between ground floor apartments and Rathbeale Rd detrimentally impacts residential amenity and compromises privacy. This is unacceptable;
 - Privacy: Ground floor apartment 0.04 has a large window to the bedroom and a deep balcony adjacent Rathbeale Rd. In Option A, a privacy screen would be required but would compromise aspect & amenity and would be unacceptable. In Option B, the balcony does not meet the required area;

- A number of apartments have balconies accessed from bedrooms. This is not appropriate and contrary to national guidelines;
- Site levels: The further information shows numerous issues relating to levels and inadequate setback/buffer from Rathbeale Rd. (1) Steps are proposed to serve the 2 easternmost apartments in Block 1; residents unable to navigate stairs will have to walk around the building outside the site to the Rathbeale Road entrance to access these apartments which is unacceptable. (2) Block 1 entrance slope is c.1:5 which is unacceptable and creates compliance issues. (3) There is a significant slope (c.1:13) across the car park which impacts wheelchair access;
- Scale, height massing: Two design options were submitted in response to further information:
 - Option A omits 5 units comprising the top floor of Block 1 and reduces the density to 140.0dpha (reduction in total units to 31). Option B omits 1 unit, recesses the top floor of Block 1, and reduces the density to 159.1dpha (reduction in total units to 34). Block 2 is unchanged in both options;
 - Report noted the Architect Department considered the corner of Block 1 was more successful in the original proposal, and that a reduction in height by one story and further setback from Rathbeale Rd would lessen visual impact;
 - Report stated the shallow setback adds to visual impact and prominence along this approach and Block 1 sits considerably forward of the building line. While some building line variation can be considered, the building line, height and design are unduly prominent and fail to respond to the site context.
 - Block 1 is overbearing and dominant on all approaches. Both options are unacceptable. Proposal cannot be justified given the infill nature of the site and surrounding low density housing. The scale, height and massing of Block 1 would have an undue visual impact on the amenity of the area. Proposal fails to address concerns of Planning Authority regarding massing, scale and design. Permission should be refused.
- Design: The 2 no. design options fail to address Planning Authority concerns on massing, scale and design. Given the surrounding low-density housing, the scale of the infill proposal does not integrate with the receiving environment. The scale,

height and massing of Block 1 have an undue visual impact. Proposal would be dominant and overbearing at this prominent corner and busy junction;

- Elevations and materials: Brick and metal cladding are proposed. The materiality of Block 1 would benefit from further consideration as the largely uniform finish does not assist in reducing the massing of the structure;
- Density: The initial Planner report stated the density (173dpha) could not be justified given the nature of the area. It stated that a balance must be struck between protection of amenities/privacy of adjoining dwellings; protection of the established character; and the need for residential infill. Design should recognise need to protect the amenities of directly adjoining neighbours and character of the area. The final Planner Report did not recommend refusal on density grounds, but raised issue with the proposal in the context of the low density area;
- Transport: Vehicular access, car & cycle parking; boundaries; and sightlines are generally acceptable, however the setback / buffer from Rathbeale Road and resolution of site levels are inadequate:
 - Setback/buffer: The 14.3m minimum road width required by Transport Department is not achieved. Rathbeale Rd is a secondary cycle route (2022 GDA Cycle Network) and radial cycle route (2022 Sustainable Swords Strategy). The existing road width varies from 11.7m to 13m; no setback is proposed; and the building edge is 3.5m from the footpath edge. The Transportation Section considers the absolute minimum should be 14.3m with a preference for an undeveloped reservation of min. 2.4m along the entire site boundary with Rathbeale Road.
 - Levels: With road widening the footpath could be within c.1.5m of the ground floor apartments and 1m higher than ground floor level, which is unacceptable. The ramped access to ground floor from the public footpath would be an impediment to widening the road due to proposed levels.
- Open space: Communal open space would not have good sunlight, however the submitted sunlight & overshadowing report deemed the sunlighting was acceptable, and that the proposal would cause minimal overshadowing. The spaces between the blocks and bin/bike stores are narrow and without passive surveillance; access to these spaces from either end should be controlled;

- Waste: Concerns regarding the proximity of bin stores to the dwelling to the north of the site raised at application stage were resolved by relocation of waste storage to the western boundary of the site;
- Lighting: A public and private lighting plan to clarify proposals is submitted;
- Parks & green infrastructure: No public open space proposed (1,350sqm shortfall). A contribution in lieu is required. The proposed tree felling is acceptable. Landscaping and open space are acceptable subject to condition;
- Water Services: No objection in relation to flood risk. Proposal included SuDS measures and will discharge to mains. Revised proposal indicated sufficient provision of green/blue roof infrastructure. No objection subject to conditions;
- Heritage: Report noted the submitted documents and Heritage Officer Reports. A condition for archaeological testing is required;
- Part V: Letter from the Housing Department was noted. A condition is required in this regard. Report noted that social housing should be fully accessible;
- Environmental Impact Assessment: Proposal is sub-threshold;
- European Sites: The NIS concluded that implementation of the mitigation will not result in adverse effect on the integrity of any Nature 2000 Sites;
- Ecology: The Ecological impact Assessment (EclA) and Bat Survey recommended mitigation;
- Noise: Report noted submission from DAA and recommended noise mitigation;
- Recommendation: Response to further information did not address design and road upgrade set-back issues. Neither design option addresses massing, scale, and design concerns. Proposal needs to provide set back Block 1 having regard to the established building line to north-west and respect character of the area.

Other Technical Reports

- 3.2.2. Transportation Planning: Final report indicated the further information response was generally acceptable, including detailed design issues in relation to sightlines and the accuracy of submitted drawings. However, the Section still had significant concerns with the proximity of Block 1 to the Rathbeale Road and the effects on the Council's objective to provide improved cycle and pedestrian infrastructure along Rathbeale

Road and consequently recommended refusal. Report also raised significant concerns with proposed level differences along Rathbeale Road.

3.2.3. Architect Department: Two reports are recorded:

- 1st report recommended further information regarding site levels; the position of railings within the elevations; and apartment layouts. Report raised issues in relation to; security of the site; dimensions; passive surveillance of spaces between apartment blocks/bike store; boundaries; public lighting; and materials.
- 2nd report referred to a number of issues including: visual impact; roof profile; height; massing; levels; set-back from Rathbeale Road / road width; privacy of ground floor apartment 0.04; access to easternmost apartments in Block 1; Block 1 entrance slope; and apartment internal storage incl. hot presses.

3.2.4. Housing Department: Proposal is acceptable subject to Part V conditions.

3.2.5. Water Services: No objection subject to standard surface water conditions.

3.2.6. Parks & Green Infrastructure Division: Quantity of open space is not acceptable. Recommended conditions for a revised open space layout to include a play facility; revised tree planting plan and; financial contribution in lieu of public open space.

3.2.7. Air & Noise Section: No objection subject to conditions relating to internal noise levels, noise monitoring, and construction management.

3.2.8. Environment Department: Report recommended conditions for resource waste management; further information or conditions for operational waste management, and the attachment of a note on asbestos.

3.2.9. Heritage Officer: Reports recommended archaeological monitoring conditions.

3.2.10. Public Lighting Section: Report stated that no external lighting design details were provided, that a lighting design is to be submitted, and that approval in writing for the alteration of existing public lighting is required.

3.3. **Prescribed Bodies**

3.3.1. Dublin Airport Authority (DAA): Two submissions received. The first stated no comment. The second recommended consideration of noise and related conditions.

3.3.2. Uisce Eireann: No objection in principle subject to standard conditions.

3.4. Third Party Observations

3.4.1. During the planning application stage 36 no. submissions from 23 no. observers were made to the Planning Authority. The issues raised related to:

- Density, scale, height, & massing: 5 storeys is inappropriate and represents overdevelopment. 3 storeys is appropriate. Inappropriate layout and building line;
- Residential amenity: Overlooking, overshadowing and overbearing impacts on neighbouring residential amenity. Privacy impacts on rear gardens of Rathbeale Crt and Watery Ln. Lack of detail on boundaries and insufficient boundaries. Noise impacts, incl. from roof terrace and balconies. Lack of open space;
- Visual impact: Impact on view of round tower, trees, materials and boundaries;
- Access & parking: Inadequate parking. Impact on Rathbeale Rd/Watery Ln junction. Access is to Watery Ln which is extremely busy. Pollution, noise and emissions from roads. Traffic hazard; traffic management proposals required;
- Flood risk: Potential for flooding along Watery Lane;
- Archaeology: Impact on the Medieval town of Swords;
- Biodiversity & environment: Impacts on greenery, soils, and climate;
- Additional matters: Impact on property values; Construction noise; Management company liaison with local residents; Lack of local infrastructure; Lack of clarity regarding Options A and B; errors in application; consistency in decision-making; lack of community engagement; location of bins and resulting impacts; and telecommunications impacts.

3.4.2. The submissions from SK Biotek related to the pharmaceutical manufacturing site across Watery Lane to the east. The submission raised issues regarding:

- Resident amenity: Development height and potential overlooking of the company site, and potential for complaints from future residents regarding established industrial activities incl. from fire alarm testing. Submission requests reduced height, high performance glazing, and mechanical ventilation to counterbalance exposure to existing noise, light and air baseline conditions;

- Parking & Access: Insufficient car parking which may result in on-street parking and traffic issues along Watery Ln incl. for heavy goods vehicles entering the company facility. No construction traffic management plan.

4.0 Planning History

4.1. Subject site

4.1.1. Reg. Ref. F24A/0385E: Planning permission refused by Planning Authority in 2024 for (i) Demolition of shed; (ii) construction of 40 no. apartments in 2 no. blocks (Block 1 of 5-storey height, with set-back sixth floor containing 31 no. apartments; Block 2 of 3-storey height containing 9 no. apartments); (iii) 328sq.m of external communal amenity space and bin store/bicycle store at ground level; (iv) 14 no. vehicular parking spaces at ground level accessed by Watery Lane; and (v) all ancillary works including tree removal/planting, landscaping, boundary treatment, visitor cycle parking (22 no. regular & 2 no. cargo spaces), SuDS and site services, site infrastructure and associated site works necessary to facilitate the development.

4.1.2. The application was refused for 3 no. reasons, summarised as follows:

- 1. The excessive density, scale, height, massing and overall layout, would constitute overdevelopment, would be unduly obtrusive, and out of character with the pattern of development in the area. The development would seriously injure the amenities of the area and property in the vicinity;
- 2. Inadequate layout for future residents with regards to parking provision, bicycle and bin store location, usability of the communal open space, public safety, privacy and public realm and lack of set back from a busy junction which would materially contravene the provisions of the Fingal Development Plan 2023-2029, Policy SPQHP35 and Objective DMSO4 and would be contrary to the 'RS' residential zoning. The proposed development in this form, would seriously injure the residential amenity of the area and create an undesirable precedent. The proposed development does not address the site constraints and characteristics;
- 3. The lack of adequate information with respect to transportation provision, water services, landscaping and tree protection, public lighting, biodiversity

considerations and AA screening, failed to demonstrate compliance with the provisions of the Fingal Development Plan 2023-2029.

4.1.3. RZLT057/22 (ABP-316669-23): Inclusion of land for Residential Zoned Land Tax.

4.2. **Nearby sites:**

4.2.1. Reg. Ref. F21A/0277: Planning permission granted by the Planning Authority in 2021 for a single storey extension to side, creation of an additional floor, creation of new windows, and enlargement of access at No. 21 Rathbeale Road (south of site).

5.0 **Policy Context**

5.1. **National guidelines and strategies**

Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities July 2023. Circular NSP 03/25 and NSP 04/2025.

National Planning Framework 2025, incl. NSO 5 'Sustainable Mobility' and NPO37.

Sustainable Residential Development & Compact Settlements 2024 and Appendices.

National Biodiversity Action Plan 2023, including its Objectives and Targets.

Design Manual for Urban Roads and Streets 2023.

National Transport Authority (NTA) Cycle Design Manual 2023.

Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities 2021.

Urban Development and Building height Guidelines for Planning Authorities 2018.

Universal Design Guidelines for Homes in Ireland 2015 (National Disability Authority)

Building For Everyone A Universal Design Approach 2012 (NDA)

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) 2009 (*replaced*)

5.2. **Regional**

5.2.1. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019

5.2.2. Swords identified as a Key Town in the Metropolitan Area.

Regional Policy Objective RPO 5.2: *“Support the delivery of key sustainable transport projects including Metrolink, DART and LUAS expansion programmes, BusConnects and the Greater Dublin Metropolitan Cycle Network and ensure that future development maximises the efficiency and protects the strategic capacity of the metropolitan area transport network, existing and planned.”*

Regional Policy Objective RPO 5.3.

5.2.3. NTA Greater Dublin Area Transport Strategy 2022 – 2042.

5.2.4. NTA 2022 Greater Dublin Area Cycle Network incl. (Tile “2022 Greater Dublin Area Cycle Network Plan - Swords, Malahide & Portmarnock”).

5.3. **Development Plan**

5.3.1. The site is zoned ‘RS - Residential’ in the Fingal County Development Plan 2023-2029, where the land use zoning objective is *“Provide for residential development and protect and improve residential amenity”*.

5.3.2. There are a large number of relevant Development Plan provisions, as follows:

Core Strategy:

Policy CSP14 ‘Consolidation and Re-Intensification of Infill/Brownfield Sites’:

“Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects”

Policy CSP15 ‘Compact Growth and Regeneration’: *“Support the implementation of and promote development consistent with the National Strategic Outcome of Compact Growth as outlined in the NPF and the Regional Strategic Outcome of Compact Growth and Regeneration as set out in the RSES”*

Objective CSO21 ‘Promotion of Higher Densities’: *“Promote higher densities (50+ units per hectare) at appropriate locations in urban built up areas subject to meeting qualitative standards at appropriate locations with particular reference to urban*

centres and/or in proximity to high-capacity public transport nodes while demonstrating compliance with all relevant Section 28 Ministerial Guidelines”

Objective CSO72 ‘Compact, Organic and Sequential Development of Towns and Villages’: *“The scale of new residential schemes within Towns and Villages shall be in proportion to the pattern and grain of existing development with a focus on delivering compact growth and providing for the organic and sequential development of the settlement. Infill and brownfield development shall have regard to the existing town or village character and create or strengthen a sense of identity and distinctiveness for the settlement.”*

Sustainable Placemaking & Quality Homes:

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

Policy SPQHP5 ‘Quality Placemaking’: *“Add quality to the places where we live, work, and recreate by integrating high quality design into every aspect of the Plan, ensuring good quality accessible public realms, promotion of adaptable residential buildings, and by ensuring development contributes to a positive sense of place, local distinctiveness and character”*

Objective SPQHO6 ‘Universal Design Approach’: *“Promote and facilitate a Universal Design for all developments.”*

Policy SPQHP16 ‘Accessibility for All’: *“Promote the development of built environments and public realms which are accessible to all, ensuring new developments accord with the seven principles of Universal Design as advocated by the National Disability Authority, Building for Everyone: A Universal Design Approach, and to consider the appointment of a dedicated Access Officer to coordinate disability issues across departments to include liaising with planning and strategic infrastructure departments”*

Section 3.5.11.3 ‘Density’.

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 SPQHO37 'Residential Consolidation and Sustainable Intensification': *"Promote residential consolidation and sustainable intensification at appropriate locations, through the consolidation and rejuvenation of infill/brown-field development opportunities in line with the principles of compact growth and consolidation to meet the future housing needs of Fingal"*

Objective SPQHP38 'Compact Growth, Consolidation and Regeneration': *"Promote compact growth in line with the NPF and RSES through the inclusion of specific policies and targeted and measurable implementation measures that: " Encourage infill/brownfield development " Focus growth on the County's designated strategic development areas identified in the Metropolitan Area Strategic Plan " Promote increased densities along public transport corridors"*

Objective SPQHO38 'Residential Development at Sustainable Densities': *"Promote residential development at sustainable densities throughout Fingal in accordance*

with the Core Strategy, particularly on vacant and/or under-utilised sites having regard to the need to ensure high standards of urban design, architectural quality and integration with the character of the surrounding area”

Objective SPQHO39 ‘New Infill Development’: *“New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.”*

Objective SPQHO42 ‘Development of Underutilised Infill, Corner and Backland Sites’: *“Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected”*

Objective SPQHO43 ‘Contemporary and Innovative Design Solutions’: *“Promote the use of contemporary and innovative design solutions subject to design respecting the character and architectural heritage of the area.”*

Connectivity & Movement:

Objective CMO6 ‘Improvements to the Pedestrian and Cyclist Environment’: *“Maintain and improve the pedestrian and cyclist environment and promote the development of a network of pedestrian/cycle routes which link residential areas with schools, employment, recreational destinations and public transport stops to create a pedestrian/cyclist environment that is safe, accessible to all in accordance with best accessibility practice”.*

Section 6.5.6.5 ‘Accessibility and Universal Design’:

Objective CMO24 ‘NTA Strategy’: *“Support NTA and other stakeholders in implementing the NTA Strategy including MetroLink, BusConnects, DART +, LUAS and the GDA Cycle Network.”*

Dublin Airport: Objective DAO11 ‘Requirement for Noise Insulation’: *“Strictly control inappropriate development and require noise insulation where appropriate in accordance with Table 8.1 above within Noise Zone B and Noise Zone C and where necessary in Assessment Zone D, and actively resist new provision for residential development and other noise sensitive uses within Noise Zone A, as shown on the Development Plan maps, while recognising the housing needs of established families*

farming in the zone. To accept that time based operational restrictions on usage of the runways are not unreasonable to minimise the adverse impact of noise on existing housing within the inner and outer noise zone.”

Chapter 14 Development Management Standards:

Section 14.2 ‘Key Principles for all Planning Applications’ and Section 14.2.1 ‘Universal Access’

Section 14.4.1 ‘Healthy Placemaking Design Criteria’, incl. Objective DMSO4 ‘Key Principles to consider in the achievement of Healthy Placemaking’: *“The design and layout of a development, the public realm and supporting infrastructure should incorporate Universal Design insofar as is feasible”* and Section 14.4.3 ‘Ensuring Accessibility for All’

Section 14.5 Consolidation of the Built Form Design Parameters’, incl. Section 14.5.1 ‘Achieving Consolidation’ and Table 14.4: ‘Infill Development’

Section 14.5.2 ‘Building Density’, Section 14.5.3 ‘Building Heights’, and Section 14.6.3 ‘Residential Density’

Section 14.6 ‘Design Criteria for Residential Development in Fingal’, incl. Section 14.6.6.3 ‘Separation Distances’ and Objective DMSO23 ‘Separation Distance’ and Section 14.6.6.4 ‘Overlooking and Overbearance’

Section 14.7 ‘Apartment Development/Standards’ incl. Objective DMSO24 ‘Apartment Development’: *“All applications for apartment development are required to comply with the Specific Planning Policy Requirements (SPPRs), the standards set out under Appendix 1 and general contents of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020 (or updated guidance as may be in place at the time of lodgement of the planning application)”*

Section 14.10 Additional Accommodation in Existing Built-up Areas, incl. Section 14.10.1 Corner/Infill Development and Objective DMSO31 Infill Development: *“New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.”*

Objective DMSO105 'Development within Airport Noise Zones'

Objective DMSO116 Provision of Building Setbacks: *"Seek to provide appropriate building setbacks along the road network to facilitate future road improvements."*

Public open space and play facilities: Objectives CIOSO49, GINHO20, DMSO50, DMSO52, DMSO53, DMSO54 and DMSO57.

5.4. Natural Heritage Designations

- 5.4.1. Malahide Estuary SAC is approx. 1.36km and Malahide Estuary SPA is approx. 1.38km to the north-east of the site.

6.0 Environmental Impact Assessment screening

- 6.1.1. The proposed development has been subject to preliminary examination for environment impact assessment (See Form 1 & 2 Appendix 1 of this report). Having regard to the characteristics and location of the development and the types and characteristics of potential impacts, I consider that there is no real likelihood of significant effects on the environment. The development, therefore, does not trigger requirement for EIA screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of First-Party Appeal

- 7.1.1. A first-party appeal was received from the appellant's planning consultant, the main points of which are summarised as follows:
- Viability: The proposed development is the minimum for commercial viability;
 - Design iterations: Appeal details planning history, design iterations, and contrasting advice from Planning Authority. It considers the design revisions from previous application and at further information reduced the visual impact and density of development. Apartments on the site will by their nature contrast with existing character. Density accords with Compact Settlement Guidelines;

- Parking: Planning Authority indicated site is in Zone 1 where maximum standards apply. Provision is increased since previous refusal but is below maximum;
- Cycle & bin storage: Cycle parking is below Development Plan requirements but above Apartment Guidelines requirements. Bin store locations are appropriate;
- Communal open space: Space is proposed at ground floor on western boundary and a roof terrace on Block 1. Sun exposure is maximised. A financial contribution is proposed in lieu of public open and play space;
- Public safety: Planner Report noted safety issues in the car park. The Transport Statement stated each parking space could be safely accessed;
- Public realm/set-back from junction: The green area to the east of Block 1 will improve the public realm. Appeal sets out points relating to previous refusal;
- Subject proposal/Pre-planning: Appeal sets out points regarding changes made to proposed scheme in response to pre-planning, and sets out general points on the merits of the proposed scheme and documents submitted;
- Site layout & Visual amenity: Proposal is appropriate scale for a suburban site close to Swords. Standard housing would be below or just above Compact Settlement Guidelines minimum density. Proposal responds to prominent corner and streetscape. Appeal includes examples of corner site applications in Swords;
- Design: Regarding refusal reason 2, appeal includes a further alternative design option which responds to the concerns raised in Reason 2;
- Level differences: Revised site & ground floor plans submitted with the appeal respond to Planning Authority concerns regarding levels and provide the same level across the ground floor to meet universal design standards;
- Setback: Adequacy of Block 1 setback from Rathbeale Rd is addressed by alternative design option. It provides 14.3m buffer/reservation for road widening and provides ground floor units with improved privacy, railings & landscaping;
- Internal storage: In the alternative design boilers to be located outside of storage and in kitchen/living areas or boiler rooms. Details to be agreed by condition;

- Private open space access: The alternative design option rectifies previous issues of private amenity space being accessed from bedrooms by reconfiguring the internal layout of the units. Conditions can be attached in this regard;
- Road setback: No requirement for a road reservation relating to 2022 GDA Cycle network was stated in previous application F24A/0385E or pre-planning. The reservation requested at further information stage is not based on a formally confirmed infrastructural project for upgrade of Rathbeale Rd. Development Plan Objectives referenced in the refusal reason (DMSO116, CMO6 & CMO24) are not site-specific. It is feasible to achieve the reservation on Watery Lane; achieving it along Rathbeale Rd would fundamentally compromise the proposed development. Refusal reason 3 indicates the proposal fails to deliver the entirety of the requested reservation. The proposal at further information provides a 13.75m setback. The remaining 0.55m could be provided by third-party lands on the opposite side of Rathbeale Road. It is unreasonable that such a setback be sought for an infrastructure project for which no formal plans are prepared and that the entire reservation be delivered within the subject site;
- Alternative design option: Appeal states the alternative design provides a number of minor alterations to the layout and internal alterations to meet universal design standards and national guidelines;
- External alterations: Appeal states the external alterations comprise repositioning of Block 1 to the north to increase the set-back from Rathbeale Road for future road upgrades; revised car parking layout; revised communal open space layout; revised visitor cycle parking; and additional pedestrian access ramp;
- Internal alterations: Internal alterations comprise: Level changes to Block 1 ground floor to ensure universal access; revised internal storage to comply with national guidelines and; revised access to private amenity space. Appeal states Apartment 0.04 could be repurposed as a communal room for residents.

7.1.2. The appeal includes drawings of the alternative design. The appeal also includes a statement from the appellant, Rathbeale Developments Ltd, summarised as follows:

- Reason 1: Refusal is contrary to thrust of Policy SPQHO42. Site has been vacant for decades; is underutilised; and a strategically located infill opportunity in Swords. Massing and height have been modulated to reduce impacts. The

area is not defined solely by low-rise residential but also commercial/industrial uses. Council decision is disproportionate and is not appropriately balanced;

- Rathbeale Rd setback: Statement sets out details of pre-planning and building examples in the area, and states the issue of a setback was not raised during the pre-planning process, and refers to contradictions in the pre-planning advice;
- Building height: Statement refers to varying pre-planning advice. It states that increased height & massing at corners is an established urban design principle. Corner sites are naturally prominent. The taller corner element is a deliberate design strategy to articulate the building's role in the streetscape;
- Massing: Set-backs, multiple styles, articulation, modulation, block segmentation, and contrasting materials have been incorporated to break up the massing and respect the scale and character of the area. Six storeys is acceptable;
- Residential amenity: Impact on residential amenity is minimised having regard to the orientation and distance to neighbouring dwellings and proposed height;
- Visual amenity: The 5-storey element is at the junction. Planning Authority requested a design to reinforce the corner. Rathbeale Road is an arterial route to Swords centre and includes higher density and commercial uses;
- Policy support: Development Plan supports the scheme as a corner infill site. It promotes compact growth, consolidation, and higher densities. Statement refers to a number of policies and recent planning cases in this regard;
- Housing need: Statement set out details of housing need and that Commission is entitled to grant permission where a proposal materially contravenes a Development Plan where national or regional policy considerations so warrant;
- Undesirable precedent: Land in this location is a limited resource and should be appropriately maximised rather than deny development based on subjective, inconsistent or conflicting assessment. There are few such sites left in Swords;
- Reason 2: The matters raised have been addressed;
- Reason 3: During pre-planning the proposed cycle lane was accepted by Transportation Department, but refused during application. Revised proposal meets or exceeds the set-back or reservations required by the Department.

7.1.3. The statement includes details of communications from the pre-planning process.

7.2. Planning Authority Response

7.2.1. The Planning Authority response reiterates points made in the Planner Report on the application; requests the Commission to uphold the Decision; and to attached financial conditions should the appeal be granted.

7.3. Observations

7.3.1. Five observations were received by the Commission, summarised as follows:

DAA: Observation reiterated points made at planning application stage;

William & Bernadette Murray: Observers agree with the decision to refuse;

Philip Farrell: Observation set out concerns regarding the following matters:

- Inappropriate scale and height. The Block 1 5th-floor setback and roof terrace is inconsistent with surrounding low-rise housing. There is a lack of clarity as to which Option is being pursued;
- Proposed level of parking is unrealistic given the lack of public transport;
- Proposal places an unsustainable burden on roads, services & public transport;
- Tree removal, minimal green space; and lack of biodiversity measures raise concerns. The submitted NIS is not sufficient to address this;

Anna & Michael Walsh: Observation set out concerns regarding the following:

- Scale, height and density of the 5-storey element is not in character with the existing properties in the area. Scale of development could negatively impact property values. Three storeys would be more appropriate;
- 14 no. spaces for 36 units is inadequate and will lead to parking on streets;
- The Watery Ln/Rathbeale Rd junction is busy and cannot accept the extra traffic;
- Back gardens on Rathbeale Cr, Rathbeale Rd and Watery Ln will be overlooked.

Des & Carmel Bruton: Observation reiterated concerns raised to the Planning Authority in relation to density, height and car parking.

8.0 Assessment

8.1.1. Having regard to the foregoing; having examined the application, appeal, Planning Authority reports, and all other documentation on file including all of the observations received in relation to the application and appeal; and having inspected the area in and around the site; and having regard to relevant local, regional and national policies, objectives and guidance, I consider the main issues in this appeal are:

- Reason 1 (Height, massing, visual impact, design & materials, layout, residential amenity, set-back, & resident amenity);
- Reason 2 (Levels, set-back, storage, & accessibility to private amenity space);
- Reason 3 (Failure to provide required cycle reservation);
- Related matters raised in the course of the appeal (incl. access; public open space; noise; water & drainage; ecology; lighting; & construction)

8.2. Principle of Development

8.2.1. The site is located within a 'RS - Residential' land use zone. Residential development is acceptable in principle in this area. I am satisfied the proposed development is acceptable in principle subject to the considerations below.

8.3. Reason 1

8.3.1. Refusal reason 1 stated that the development would be out of keeping with the character of the area, and would fail to create a sense of visual harmony and a satisfactory design response to the prominent location on account of the site layout, limited set back from the Rathbeale Road and building height, massing and design. It also stated the proposal would significantly detract from the visual amenity of existing residential properties and from the visual amenities of the area and would be contrary to Development Plan Objective SPQHO42 which seeks to protect the character of existing residential areas that are subject to infill development.

8.3.2. I note the related points made in the Planner and Architect Department reports. The applicant submitted a Design Statement, photomontages, and associated architectural, engineering and landscape drawings which I have reviewed in detail.

Layout and set-back from the Rathbeale Road

8.3.3. Regarding the proposed layout, set-back and building line, I address the set-back of the proposed development from Rathbeale Road and Watery Lane in relation to the provision of cycle infrastructure under Reason 3 below. However, in terms of urban design, having visited the site, and having reviewed all of the information on file, including in relation to the site context and proposed layout, I am generally satisfied the layout, set-back and building lines are a reasonable and acceptable response to the site and its context. I consider the following:

- Regarding Water Lane, I am satisfied the proposal generally follows the established building line along the Lane;
- Regarding Rathbeale Rd, I note the existing building line varies along the northern side of Rathbeale Rd to the west of the site; the site is approximately 30m from the nearest building to the west; and the site is large and located on a corner at the junction of Rathbeale Rd and Watery Ln; I consider these factors provide latitude for the proposal to establish an adjusted building line in the site;
- I acknowledge that the western elevation of Block 1 is prominent when viewed from the west along Rathbeale Road, and this is due in part to the position and alignment of the block. However, on account of the existing building line which varies and the potential for the future development of the adjacent vacant site, I consider that 'stepping out' the building line at this point is not unreasonable, and I am satisfied that a more graduated building line can emerge over time in response to the existing and proposed building alignment at this point.

8.3.4. Accordingly, from an urban design perspective, I consider the proposed building line, set-back and layout along Rathbeale Road and Watery Lane as proposed is generally acceptable. I am satisfied the prominent corner location and shape of the site, and its location in an urban area close to Swords town centre, provide for a building line closer to the road and that the proposed layout is a reasonable urban design response to this site and its context.

Height and massing

8.3.5. Regarding building height, the Development Plan does not prescribe specific building heights for the area but instead sets out a number of relevant policies, objectives and

provisions. In this regard I note in particular the wording of Objectives SPQHO39 and DMSO31, and Sections 14.5, 14.5.1 and 14.6. as set out above, and consider there is some variation between the requirements of these provisions. In this regard I note the requirement that the height and massing of infill development 'shall respect' (SPQHO39 and DMSO31) is a higher bar than the requirement for infill development to 'at minimum take cognisance of' (Sections 14.5 / 14.5.1). I also note the emphasis on performance criteria (Section 14.6).

8.3.6. The Planning Authority internal reports made a number of points regarding the proposed height and number of storeys relative to that of the dwellings to the south, west and north. The appellant in contrast compares the proposal to the scale of commercial development to the east. I also consider the topography and layout of the area are particularly relevant, including the level changes across the site and neighbouring area. In this regard I note in particular the following contextual factors:

8.3.7. Regarding Block 1, the closest dwellings are to the west and south:

- Regarding dwellings to the west, the parapet level of Block 1 as proposed at further information would be approx. 1.7m higher than No. 21A Rathbeale Road (for Option A, and approx. 4.7m for Option B). This is despite No. 21A being 2-storeys and Block 1 being 4-storeys at its nearest point in both Options. The distance between No. 21A and Block 1 would be over 30m;
- Regarding dwellings to the south, there are 3 no. dwellings directly opposite the site (Nos. 15, 19 and 21 Rathbeale Road). They are a mix of 2-storey and 2-storey dormer dwellings. Due to the topography of the area, Block 1 at parapet level would be approx. 3.5m taller than No. 15 Rathbeale Road (for Option A, and approx. 6.5m for Option B), and approx. 6.1m taller than No. 19 Rathbeale Road (for Option A, and approx. 9.1m for Option B). No information on the relative heights of No. 21 Rathbeale Road are provided, however from visiting the site I consider that the relative height to Block 1 would be comparable to that of No. 19 Rathbeale Road. Those three dwellings range in distance from the proposed Block 1 by approximately 22.5 to 30.5m.

8.3.8. Regarding Block 2, the closest dwellings are to the west (Rathbeale Court) and north-west (Watery Lane). Block 2 would be approx. 2.7m taller than the nearest dwelling, No. 22 Watery Lane, which equates to a single storey. Having visited the

site, I am satisfied Block 2 would be at a comparable height to the closest houses to the west (Nos. 2 and 4 Rathbeale Court) and would be approx. 30m distance away.

8.3.9. I have had due regard to the Building Height and Compact Settlement Guidelines.

Block 1 Options

8.3.10. As stated above, 2 no. design options for Block 1 were submitted in response to further information

- Original proposal: The initial Block 1 proposal was for a 4- and 5-storey building, with the 5-storey element addressing the corner of Watery Lane and Rathbeale Road, and the 4-storey element stepping down to the west;
- Further information Option A: This option for Block 1 proposed for the 5th-storey to be omitted. The resulting block would be predominantly 4-storeys in height but reducing to 3-storeys at the corner of Rathbeale Rd and Watery Ln. The only 5th storey element comprised a small roof access;
- Further information Option B: This option for Block 1 proposed for the 5-storey element to be set back from the southern, eastern and western elevations.

8.3.11. In both options Block 2 is unchanged as a 2-storey with 3-storey set back block.

Assessment

8.3.12. Whilst I accept that the proposed development represents a change in terms of number of storeys and massing compared to the dwellings to the north, south and west, when the existing and proposed ground levels are taken into account, and also the distances from these dwellings to the proposed blocks, I am satisfied the differential in height for Option A is not unacceptable or undue for the area. Having regard to the foregoing, and to the provisions of the Development Plan, including the varying provisions of Objectives SPQHO39 and DMSO31 and Sections 14.5/14.5.1, I am satisfied the proposed development takes cognisance of and respects the height of existing residential units in the area, and overall accords with the provisions of the Development Plan and national guidance in relation to height.

8.3.13. In relation to Option B as presented, I note the points made in the Planner and Architect Department reports in this regard. I also note that the Observations on the application and appeal, in the main, raised issue with the 5th floor specifically. Having reviewed the differential in height and scale resented by Option B, I am inclined to

agree in this regard, and consider that the height and scale of Option B would exceed the reasonable capacity of area to assimilate the proposed increased height.

8.3.14. Regarding massing, in the above context, in broad terms I consider the design approach in this regard is generally appropriate. Two blocks are proposed, each of which generally address the adjacent roads. The massing of Block 2 is more constrained on account of its proximity to dwellings on Watery Lane and the access point from Watery Lane. In relation to Block 1 (Option A), I am satisfied the greater height and larger massing of this block is appropriate having regard to the need for the design to resolve the prominent corner location; the greater length of uninterrupted road frontage; and the higher ground levels to the south along Rathbeale Road. On balance I consider the overall approach to massing is appropriate in Option A.

8.3.15. Overall in relation to the two options presented, having reviewed the information submitted, I am satisfied that only further information design Option A is acceptable in relation to building height and massing. Accordingly, I only consider Option A further in my assessment below.

Neighbouring residential amenity

8.3.16. I have had regard to the impact of the proposed development on the residential amenity of neighbouring dwellings. I have had regard to the points made by observers, particularly in relation to overlooking, overshadowing, overbearance, and privacy, as well as in relation to noise, boundaries and mitigation.

8.3.17. Regarding dwellings to the north, I note in particular the proximity of those dwellings, including No. 22 Watery Lane adjacent the site. These dwellings are 2-storey. None of the proposed windows would face these dwellings, and no private amenity spaces are proposed adjacent to them. Block 2 at this point comprises a 3-storey building. In relation to impact on natural light, I note the relatively long rear gardens of the dwellings to the north and the results of the submitted Sunlight, Daylight & Overshadowing (SDO) report which indicated minor impacts on those dwellings, including No. 22. The report indicated that all neighbouring dwellings would meet guideline natural lighting levels. I note in particular that No. 22 is approx. 5.4m away from Block 2, and is orientated east-west, with its main private amenity space located to the rear and orientated west. I have had due regard to Section 1.5 of the SDO

report which addressed a small side window facing the site from No. 22. Overall, given the relative positioning of the existing and proposed dwellings, and having regard to the layout, scale, and form of the proposed development at this point, as well as to the results of the SDO report, I am generally satisfied there would be no unacceptable impacts on the residential amenities of dwellings to the north.

8.3.18. Regarding dwellings to the south, I note the proximity and orientation of Nos. 15 to 21 Rathbeale Road across the road from the site (noting development permitted to No. 21 Rathbeale Road under Ref. F21A/0277). Block 1 would range in distance from those dwellings by approx. 22.5-30.5m. I note the height of Block 1 and the southern elevations proposed. I also note the respective ground levels of the existing dwellings on Rathbeale Road and those for Block 1 (Option A). Having regard to the position of the existing and proposed dwellings on opposite sides of Rathbeale Road, and their respective levels, heights and layouts, as well as to the location of Block 1 to the north of these dwellings and the results of the submitted SDO report, I am generally satisfied there would be no unacceptable impacts on the residential amenity on the dwellings to the south in these regards. I am also satisfied the intervening distances are acceptable having regard to Development Plan Section 14.6.6.3 'Separation Distances', Objective DMSO23 'Separation Distances', and Section 14.6.6.4 'Overlooking and Overbearance'.

8.3.19. Regarding dwellings to the west, I note the following:

- No. 21A Rathbeale Road would be 32m away from the subject site; is at a higher elevation than the subject site, and that the side elevation faces toward the site. Block 1 would be generally 4-storeys at maximum facing No. 21A. I note the proposed communal amenity roof space proposed for Block 1 at this point.
- The rear elevations of Nos. 2 and 4 Rathbeale Court face toward Block 2 but are approx. 30-32m away from the subject site. Block 2 would be 3 storeys facing Nos. 2 and 4 Rathbeale Court at this point. I note the proposed private amenity spaces proposed in the western elevation of Block 2.

8.3.20. I also note the greenfield site located between those dwellings and the subject site. Having regard to the distances proposed to the dwellings to the west; to the existing and proposed layouts; and relative height, ground levels, and scale of the respective existing and proposed dwellings; I am generally satisfied the proposal is acceptable in

relation to impacts on existing residential amenity. In the interest of ensuring the protection of existing residential amenity, I consider however that additional visual and acoustic screening should be provided along the boundary of the proposed rooftop communal space for Block 1 (Option A).

- 8.3.21. Regarding development to the east of the site across Watery Lane, I note the observation from SK Biotek, and the nature of operations and potential impacts in this regard including regarding noise. I consider noise separately below and in summary consider that upgraded noise insulation will be required for the proposed apartments. Overall, I am satisfied the proposed development, subject to conditions relating to internal noise mitigation, is acceptable in this regard, and would satisfactorily address concerns raised by the observer in terms of residential amenity.
- 8.3.22. In summary, in relation to neighbouring residential amenity, having regard to the location, positioning, orientation and layout of nearby dwellings, and their relationship to the proposed development in terms of its form, height, scale, massing, topography and layout, I am overall satisfied the proposed development would not give rise to unacceptable detrimental impacts on the residential amenity of nearby dwellings, including in relation to overlooking, privacy, noise and natural lighting, subject to conditions regarding noise and boundary/elevation treatments as set out above.

Resident amenity

- 8.3.23. I have reviewed the other relevant matters relating to future resident amenity, including in relation to internal standards, natural light, mix, and dual aspect. I have had due regard to the documentation submitted with the application and appeal, and relevant local and national requirements. I note that over half the units are stated as being dual or triple aspect. In relation to natural light, I consider the results in the submitted SDO report are generally acceptable, with a high compliance rate with guideline levels, including for ground level apartments along Rathbeale Rd. I note too the results for natural lighting of the proposed communal areas which meet guideline levels. In relation to internal space standards, the submitted Housing Quality Assessment indicates general compliance with local and national standards. Overall I am satisfied the proposed development is acceptable in relation to resident amenity.

Density

- 8.3.24. Regarding density, the application was not refused on grounds of density, however I note the Planner Reports points in this regard. For completeness, I note that the revised options in response to further information are stated as comprising densities of 140.0dpha for Option A (compared to 159.1dpha for Option B).
- 8.3.25. The Development Plan (Objectives SPQHO1, SPQHP35, and DMSO19) requires that residential development accord with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009. I note those guidelines have been replaced. Nevertheless, the guidelines indicate the site would be treated as an infill site, and that a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill. Those guidelines set out densities of 30-40+dpha in centrally located sites; 30-35dpha in edge of centre sites; and 15-20dpha in edge of small town / village sites. In any event, the proposed densities exceed the levels indicated in those guidelines.
- 8.3.26. The Development Plan (Objective CSO21) also states that development must demonstrate compliance with all relevant Section 28 Ministerial Guidelines. The Sustainable Residential Development & Compact Settlements Guidelines 2024 replace the Sustainable Residential Development in Urban Areas 2009 guidelines. In the Compact Settlement Guidelines I consider the subject site is in a 'Centre and Urban Neighbourhoods' location (Metropolitan Town of over 1,500 population) where densities of 50-150dph are acceptable. Option A would fall below this threshold (and Option B would be approx. 6% above this). I am satisfied the proposed density Of Option A aligns with the Guidelines and Development Plan in this regard.

Character of the area

- 8.3.27. The refusal reason stated the proposal would be out of keeping with the character of the area. The appellant sets out significant commentary in this regard, including in terms of design, urban design, building height, density and visual impact, and generally seeks to demonstrate that the proposed development meets the quantitative requirements of the Development Plan and national guidelines. I do not consider however that the application or appeal satisfactorily address the impact of the proposal on the character of the area.

- 8.3.28. The Development Plan links the development of infill sites with impacts on the character of areas. I note in particular Objectives CSO72, SPQHO34, SPQHO38, SPQHO42, and SPQHO43; Policy SPQHP5, and Section 14.5.1. Having reviewed the wording of these provisions I consider the Development Plan places a range of requirements on development in relation to the character of the area, and that this varies from 'protecting', 'respecting', 'complementing', 'contributing to'; 'integrating with', and finally 'having regard to'. I note in particular the Core Strategy (Objective CSO72) requires infill development only to 'have regard to' existing character.
- 8.3.29. The refusal reason stated the development would be contrary specifically to Development Plan Objective SPQHO42, which seeks to protect the character of existing residential areas that are subject to infill development. I consider the development generally accords with a number of the Development Plan provisions in relation to the character of the area, as well as according with provisions in relation to density, height, layout, resident amenity, and impacts on residential amenity. I am also satisfied the proposed development strikes a reasonable balance in resolving these competing requirements. However, whilst the proposal does promote the development of an underutilised infill site in an existing residential area, and I am satisfied that it contributes to, integrates with, and has regard to the existing character, overall I do not consider the development as proposed could be said to respect or protect the character of the area as set out in Development Plan Objectives SPQHO34, SPQHO42 and SPQHO43 and Section 14.5.1.
- 8.3.30. This view is based on the existing character of the lands to the north, west and south which I would characterise as that of lower density, 2-storey and dormer style detached and semi-detached dwellings finished predominantly in render and slate with gardens to the front and rear. I acknowledge, as the appellant indicates, that the lands to the west comprise larger scale industrial and manufacturing buildings, however I consider those building are well screened and do not contribute as strongly to the character of the immediate area.

Material Contravention (1)

- 8.3.31. Accordingly, I am satisfied the development as proposed would materially contravene in Objectives SPQHO34, SPQHO42 and SPQHO43 and Section 14.5.1 of the Development Plan in relation to character. Whilst the Planning Authority

refused permission relation to character, the decision did not state that the proposed development would materially contravene the Development Plan in this regard.

Section 37(2)(a) of the Act provides for the Board in determining an appeal to grant permission even if the proposed development contravenes materially the development plan. Section 37(2)(b) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan the Board may only grant permission in accordance with paragraph 37(2)(a) in specific circumstances. Whilst Section 37(2) of the Act reads that subsection (b) only applies where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, a broader interpretation has been taken by the Courts. As such, whilst the Planning Authority did not refuse permission on grounds of the development materially contravening these Development Plan provisions, I consider that Section 37(2)(a) and (b) should be applied in this case.

8.4. In this context, I consider that criterion (ii) of subsection (b) is applicable – that *“there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned”*. In this regard, I consider that Development Plan Objectives CSO72, SPQHO34, SPQHO38, SPQHO42, and SPQHO43; Policy SPQHP5; and Section 14.5.1 conflict in relation to contemporary infill residential development and the character of the area. My main considerations in this regard are that application of these Development Plan requirements as worded would give rise to conflicting assessment outcomes in this case.

8.5. In this context I am satisfied the nature of the residential development proposed otherwise accords with the provisions of the Development Plan and national guidelines for the site and surrounding context, including in terms of character. As such, having regard to the land use zoning objective for the site and the Core Strategy for the area, I do not consider that refusal on these grounds is warranted.

Visual impact

8.5.1. The refusal reason stated the proposal failed to create a sense of visual harmony and a satisfactory design response to the prominent location on account of the site layout; and would significantly detract from the visual amenity of existing residential properties and from the visual amenities of the area.

8.5.2. I note the points made in this regard in the Planner Report, Architect Department report and Observations. I have had regard to the photomontages and drawings submitted which show the proposed development on all approaches. I note the points made by the appellant, in particular that the site is a corner site and is naturally prominent; that the taller corner element is a deliberate and appropriate design response to the site; and that it is intended to articulate the building's role in the streetscape and on what are arterial routes into Swords town centre.

Assessment

8.5.3. Above I have addressed the proposed height, massing, scale, and form (Option 1) which I consider are broadly acceptable. I am satisfied the development generally complies with the requirements of the Development Plan and national guidelines.

8.5.4. In relation to design, overall I consider the proposal satisfactory balances the need to address the site location on a prominent corner and on approaches to Swords town centre with a robust design which is also moderated in response to the lower density context. I consider the positioning, form and layout strikes reasonable balance in addressing the visibility of the site on three approaches, and its terminal position in each view. Given these factors, I consider the proposal strikes a reasonable balance in urban design terms between providing a building of appropriate scale to terminate views from each direction and mark the gateway to Swords town centre; provide a robust edge to the corner site; step the height and form to respond to the topography and also the surrounding dwellings and their varying levels and proximity to the site.

8.5.5. In this context, in relation to visual impact I consider the following:

- Regarding views from the south-east along Rathbeale Road, I consider these views are significantly truncated by the road width and pattern of development in this area. As such, despite the scale of the development and its corner location I do not consider the proposed development including Block 1 (Option A) give rise to an unacceptable visual impact from this perspective;
- Regarding views from the north along Watery Lane, the existing dwellings along Watery Lane provide some screening of the development in this regard. I also consider that the positioning of the more modest Block 2 in front of Block 1 also serves to screen Block 1 from this viewpoint. I also consider that the dwellings and elevated ground levels to the south moderate the visual impact of Block 1

and aid in integrating it into the existing landscape profile from this perspective. Overall, I am satisfied that the visual impact in this regard is not unacceptable;

- Regarding views from the west, as above I acknowledge that the proposed building line of Block 1 line makes the western elevation prominent, however I consider that the mature tree growth to the east of the site, and the positioning of No. 21A Rathbeale Road serve to moderate the visual impact in this regard, and integrate the block reasonably well into the existing landscape profile of the area. I also consider that the future development of the adjacent site to the west of the subject site would over time serve to further moderate this visual impact.

8.5.6. In relation to design and materials however, whilst the Development Plan requires a contemporary design response, I consider the materials, in particular the choice of red brick is unsympathetic to the area, which mostly comprises render and slate. Alongside the contemporary design, larger scale, and massing, I consider the proposed materials negatively accentuates the visual impact and change in scale, massing and form in the area. I do not consider the choice as proposed is acceptable, and should permission be granted I consider conditions for the agreement of revised materials is required.

8.5.7. In summary, and having regard to the foregoing, on balance, I am satisfied the design response and resulting visual impact is acceptable, including having regard to the general scale, form, massing and layout of the proposal. I am satisfied the proposal strikes a reasonable balance in negotiating the above contextual factors, and whilst I accept there would be a significance change in visual amenity in particular for dwelling to the south, overall I do not consider the proposal would be overly dominant or overbearing, nor would it have an undue detrimental impact on visual amenities or be unduly visually intrusive.

8.5.8. Summary – Refusal reason 1

8.5.9. Overall, I am satisfied that Option 1 as set out in response to further information is generally acceptable and broadly speaking complies with the provisions of the Development Plan. As set out above I am generally satisfied the proposal is acceptable in terms of layout, height, massing, density, building line, setback, visual impact, resident amenity and impact of neighbouring residential amenity. I am satisfied the proposal generally complies with the land use zoning objective for the

area, and the relevant provisions of the Core Strategy, including Objective CSO72. As stated above this is with the exception of Development Plan Objectives SPQHO34, SPQHO42 and SPQHO43 and Section 14.5.1 which I consider Option 1 as proposed would materially contravene in relation to impacts on the existing character of the area. On balance however I consider that the development (Option A) as proposed satisfactorily resolves the competing requirements of the Development Plan and national guidelines subject to conditions as set out above.

8.5.10. I do not consider that Option 2 as submitted in response to further information is acceptable or should be permitted.

Revised proposal

8.5.11. The appeal includes revised proposals relating to the matters raised in refusal reason 1. The Planning Authority appeal response requests the Commission to uphold the decision to refuse. The primary changes in this regard are for increased set-back of the Block 1 building line away from Rathbeale Road, and changes to ground levels at the eastern end of the block. The height, massing, density, design, layout and materials otherwise remain largely unchanged and otherwise correspond with Option 1 submitted in response to further information. I am satisfied these amendments improve the proposal in terms of impacts on residential amenity, in particular for dwellings to the south. I am satisfied that other matters including amenity and design would remain acceptable. I consider the abovementioned issues relating to the proposal materially contravening Development Plan Objectives SPQHO34, SPQHO42 and SPQHO43 and Section 14.5.1 remain, however as set out above I consider the proposal is overall acceptable and that criterion (ii) of subsection (b) of the Section 37(2) of the Act is applicable. In this regard I consider that Development Plan Objectives CSO72, SPQHO34, SPQHO38, SPQHO42, and SPQHO43; Policy SPQHP5; and Section 14.5.1 conflict in relation to contemporary infill residential development and the character of the area. Given the foregoing, I am satisfied the proposed development as revised in the appeal is on balance acceptable.

8.6. Reason 2

8.6.1. Reason 2 stated generally that the proposed development, having regard to the level differences across the site and within the building; the inadequate setback from the

Rathbeale Road; the inadequate storage provision; and the accessibility of private amenity space, would fail to provide a satisfactory standard of amenity for future residents. The reason stated the proposal was contrary to the Apartment Guidelines 2023 and would contravene materially the 'RS' zoning objective. I note the related points made in the Planner and Architect Department reports.

- 8.6.2. In relation to the revised proposals submitted with the appeal, the Planning Authority appeal response requests the Commission to uphold the decision to refuse.

Level differences

- 8.6.3. I note the multiple related Development Plan provisions in this regard, including Objective SPQHO6 'Universal Design Approach'; Policy SPQHP16 'Accessibility for All'; Section 14.2.1 'Universal Access'; Section 14.4.1 'Healthy Placemaking: Design Criteria'; and Objective DMSO4 'Key Principles to consider in the achievement of Healthy Placemaking'. I have reviewed the Universal Design Guidelines for Homes in Ireland 2015 and the document 'Building for Everyone: A Universal Design Approach 2012' from the National Disability Authority.

- 8.6.4. Regarding level differences and universal accessibility, I set out my considerations below in relation to the points made in the Planning Authority internal reports:

- There is a c.1:13 slope across the car park which will impact wheelchair users (spaces no. 10-14): Having reviewed the submitted site layout, the route from the proposed disabled parking space to the main Block 1 entrance does not appear to meet universal accessibility standards. However, I am satisfied that such levels could be achieved by condition at detailed design stage (eg. relocation of the disabled space closer to the main door);
- The Block 1 entrance slope from the footpath to finished ground level is c.1:5. This does not provide an acceptable entrance and creates compliance issues. Internal steps are proposed to serve the two easternmost apartments within Block 1 and residents unable to navigate stairs will have to walk around the building outside the site to the Rathbeale Road entrance to access these apartments: These matters are related. Having reviewed the submitted plans, whilst I consider the pedestrian access incline shown between Rathbeale Road and Block 1 is shallower than 1:5, the submitted plans indicate the proposed access ramp would not meet universal access standards. I also note that

access to 2 no. of the units in Block 1 (Units 0.02 and 0.03) from the main block entrance would not meet universal access standards on account of a significant (approx. 0.675m) internal level change within Block 1. I am satisfied however that for the purposes of granting planning permission, a compliant turning ramp could be achieved by condition externally from Rathbeale Road.

8.6.5. In this regard I note the applicant submitted a Universal Access Statement and revised drawings in response to further information. The Statement set out details relating to the universal accessibility of external and internal areas of the proposed development and stated the proposed development meets and exceeds the requirements of the Building Regulations Part M. I note the Statement addressed the accessibility of the parking area, including the approach to the building, as well as both buildings' pedestrian accesses. I am satisfied it addressed the points regarding finished levels and universal accessibility raised in the Planning Authority reports and that the proposal generally meets Development Plan requirements in this regard for the purposes of granting planning permission subject to detailed design conditions.

8.6.6. Regarding level differences and residential amenity, I set out my considerations below in relation to the related points made in the Planning Authority internal reports:

- *The private amenity space and apartments will be overlooked due to level differences and narrow setback between the site and Rathbeale Road (ground floor apartment 0.04):* I note the proposed bedrooms, living areas, and balconies of Apartments No. 0.05, 0.04 & 0.03 would be approx. 3.6m from the existing footpath edge. This would leave those units approx. 1.2m from the future road reservation edge once the cycle lanes as indicated in the application are included. Unit 0.05 would also be approx. 0.8m below the existing footpath level, and Unit 0.04 would be approx. 0.4m below the existing footpath level. Having reviewed the proposed arrangement, in particular the proximity and finished level of the units relative to the existing and future Rathbeale Road as indicated, I do not consider the proposal as submitted in response to further information would provide for an appropriate residential environment for those units in terms of privacy and residential amenity, or would be of sufficient quality. I do not consider these matters could be addressed by condition without unduly compromising the internal amenity of the units.

Revised proposal

8.6.7. The appeal includes revised proposals in this regard:

- Regarding the car park, the revised site layout shows a reconfigured car park, ground levels, and accessibility ramps. I am satisfied the approach from the car park to the main entrance to Block 1 can provide for universal access;
- Regarding pedestrian access between Rathbeale Rd and Block 1, the internal ground floor split-level in Block 1 is removed. As such both the main access and Rathbeale Road access to Block 1 can provide for universal access;
- Regarding the residential amenity of the ground floor apartments facing Rathbeale Road, the revised proposals increase the distance from the apartments to the existing road (to approx. 5.0m) and to proposed widened road (to between approx. 2.4-4.2m). It also increases ground levels within Unit 0.03 which elevate it above the existing and future road level.

8.6.8. On balance I am satisfied the revised layout and levels submitted with the appeal achieve Development Plan requirements in relation to universal access and satisfactorily resolve related matters of levels and residential amenity raised above.

Storage provision

8.6.9. The Planner and Architect Department reports indicated the proposed hot presses were included in storage provision calculations, but that the 2023 Apartment Guidelines indicate hot presses or boiler space/heat pumps will not count as general storage, and that this results in the apartments not meeting storage requirements.

8.6.10. Having reviewed the submitted plans, whilst the relevant details of tank sizes are not shown, I estimate the inclusion of boiler tanks for the apartments would take up approx. half a square metre. Given the extent to which each apartment proposed would meet or exceed the required storage provision, I consider that approximately half the apartments proposed would have, in practice, ended up below the required storage provision (by approx. 0.2-0.5sqm). I note the provisions of Development Plan Objective DMSO24 which requires all applications for apartment development to comply with the standards set out in the Apartments Guidelines. Given the size of the proposed apartments and the extent to which they generally exceed space requirements, I am satisfied this matter could be addressed by condition.

Revised proposal

8.6.11. The revised proposals submitted with the appeal states this matter has been rectified by relocating the boilers to the kitchen/living areas or into dedicated boiler rooms. I note that only ground floor plans showing the revised arrangement are submitted, and that no revised schedule of accommodation is provided. The appellant suggests that design details can be agreed by condition. Noting that all of the proposed apartments exceed the minimum floor area required, and having regard to the extent that the vast majority of apartments exceed the required unit floor areas, I am generally satisfied this matter can be resolved by condition.

Accessibility to private space

8.6.12. The Planner Report stated that a number of apartments had balconies accessed from bedrooms, and that this was contrary to national guidelines. The Apartment Guidelines (Section 3.36) state balconies should adjoin and have a functional relationship with the main apartment living areas. I note again Development Plan Objective DMSO24 requires all applications for apartment development to comply with the standards set out in the Apartments Guidelines. Given the proposed apartment layouts, the number of units affected, and the use of inset balconies as indicated, I am satisfied this matter could be addressed by condition for relatively minor revisions to fenestration and internal layout revision to the apartments affected.

Revised proposal

8.6.13. The revised proposal submitted with the appeal states this matter has been rectified by reconfiguring the internal layout of the affected units. The appellant proposes for design details to be agreed by condition. The revised internal layouts show this matter resolved, however, again only ground floor plans are provided. Having reviewed the revised plans, and having considered the internal layouts submitted with the appeal, I am generally satisfied this matter can be resolved by condition.

Refusal Reason 2 summary

8.6.14. In relation to the proposal as submitted in response to further information, as set out above, whilst I consider the matters raised in refusal reason 2 in relation to levels of the car park and access between Block 1 and Rathbeale Road, and in relation to internal storage and access to private amenity space could be addressed by condition, I consider that issues in relation to the amenity of ground floor apartments

along Rathbeale Road arising from ground levels and setback could not be overcome by condition. Accordingly, I consider that the development as proposed in response to further information would fail to provide a satisfactory standard of amenity for future residents and should be refused.

- 8.6.15. In relation to the revised proposals submitted with the appeal, whilst the Planning Authority appeal response requests the Commission to uphold the decision to refuse, I am satisfied the revised proposals satisfactorily resolve the matters raised in the refusal reason and overall comply with the Core Strategy and 'RS' zoning objective for the area, subject to conditions relating to detailed design.

Material contravention (2)

- 8.6.16. The 2nd refusal reason stated the development is located within an area with the 'RS' zoning, and that the proposed development would contravene materially the zoning objective. **Section 37(2)(a)** of the Planning & Development Act 2000 (as amended) provides for the Commission in determining an appeal to grant permission even if the proposed development contravenes materially the Development Plan. Section 37(2)(b) states that where a Planning Authority has decided to refuse permission on grounds that a proposed development materially contravenes the Development Plan, the Commission may only grant permission in accordance with paragraph 37(2)(a) in specific circumstances. I have considered the proposed development against the criteria of subsection (b) of Section 37(2). I do not consider the stated criteria ((i)-(iv)) apply in this case. Accordingly, I am satisfied that having regard to the provisions of Planning & Development Act Section 37(2), the Commission should not grant permission for the development as proposed in response to further information.

Revised proposal

- 8.6.17. However, regarding the revised proposal submitted with the appeal, I have addressed above the proposed revisions to the proposed development in these regards. I note the Planning Authority appeal response reiterated points made in the Planner Report on the application and requested the Commission to uphold the Decision. As above, I am satisfied however that the revised proposals address the issues raised in relation to site and floor levels; universal accessibility; overlooking; storage; and access to private amenity space. Accordingly, I consider the revised proposals set out in the appeal satisfactorily addresses the matters raised by the

Planning Authority in this regard. I am satisfied the revised proposal **does not materially contravene** the Development Plan, including the land use zoning objective for the area. I am also satisfied the revised proposal satisfies the provisions of local policy and national guidelines in these regards. As such I am satisfied that the material contravention matters stated by the Planning Authority in refusal reason 2 do not arise in relation to the revised proposal submitted with the appeal.

8.7. Reason 3

8.7.1. I consider the primary issue in this regard is whether the proposed development provides appropriate space along Rathbeale Rd in the form of a reservation and building setback for the future development of cycle routes; implementing the NTA GDA cycle network; and to facilitate future road improvements. Having reviewed the information on file, I consider the core matter in this regard is a difference between the Transportation Section and the applicant in relation to the appropriate width to be provided for future road upgrades, in particular cycle infrastructure.

Policy context

8.7.2. I note the following Development Plan provisions in particular:

- Development Plan Objective DMSO116 seeks to provide appropriate building setbacks along the road network to facilitate future road improvements;
- Development Plan Policy CSP15 seeks to support the implementation of and promote development consistent with the Regional Strategic Outcome of Compact Growth and Regeneration as set out in the RSES;
- Development Plan Objective CMO6 seeks to maintain and improve the pedestrian and cyclist environment and promote the development of a network of pedestrian/cycle routes to create a pedestrian/cyclist environment that is safe, accessible to all in accordance with best accessibility practice;
- Development Plan Objective CMO24 seeks to support NTA and other stakeholders in implementing the NTA Strategy including MetroLink, BusConnects, DART+, LUAS and the GDA Cycle Network;

- Development Plan Objective CSO39 'Sustainable Swords Project' seeks to support and promote implementation of key recommendations from the project. I note Rathbeale Rd is identified as a radial cycle route in the Strategy;

Planning Authority position

8.7.3. Regarding the refusal reason, it states generally that the proposed development fails to provide the required reservation and building setback along Rathbeale Rd. As the primary basis for the refusal reason, the final Transportation Planning report referenced significant concern regarding the proximity of the building to the Rathbeale Rd and effects on the Council's objective to provide improved cycle and pedestrian infrastructure along the Rathbeale Rd. The report also raised significant concern with the proposed level differences along the Rathbeale Rd. The report recommended refusal and made the following technical points:

- *According to the NTA Cycle Design Manual the 'absolute minimum' overall dimension for a future upgraded road reservation at this location is 14.3m;*
- *The Transport Planning Section's preference is for an undeveloped reservation of minimum 2.4m along the entire boundary of the site with Rathbeale Road;*
- *The building lines to the northwest generally have an established set-back from the footpath edge of c.9-10m. It is considered this alignment would continue as far as Watery Lane in the event of a proposed road upgrade;*
- *Applicant does not propose any setback of the existing boundary, and proposes a building edge measured c.3.5m only from the existing footpath edge;*
- *There is an existing circa 2.2m wide footpath along the entire Rathbeale Rd boundary of the site. The existing overall road width varies along the site from 11.7m that the at the north-western end to approximately 13m at the south-eastern end (measured from existing boundary to existing boundary). The Transportation Planning Section considers that the 'absolute minimum' overall dimension for a future upgraded road reservation at this location is 14.3m, (which is described in the initial report); and it would be our preference for an undeveloped reservation of minimum 2.4m be provide along the entire boundary of the site with Rathbeale Road*

- *The further information response does not provide a reservation and proposes for the boundary to be approximately as per the existing boundary wall;*
- *The future road widening scheme indicated could bring the public footpath within c.1.5 m of the ground floor apartments and at a level difference of 1m higher than the apartment ground level. This is unfeasible;*
- *The existence of a ramped access to the ground floor directly off the public footpath along Rathbeale Rd appears to be an impediment to any potential to widen the road in the direction of the building, as the incline of the ramp would likely be jeopardised by a loss in length (i.e for it to comply with Part M).*

8.7.4. I note the above. I am not satisfied sufficient details of the rationale for, and calculation of, the distances sought are clearly set out, noting the tolerances stated. No layout or alignment for future upgrading of either Rathbeale Road or Watery Lane is provided by the Planning Authority. No correspondence between the Planning Authority and NTA in relation to the cycle infrastructure is on the case file. I note that some flexibility appears to be available from the Planning Authority in this regard.

8.7.5. Regarding Watery Lane, my review of the file indicates the Planning Authority was generally satisfied with the proposed development as it related to future cycle infrastructure in this regard and the achieved width of 14.3-14.7m along the Lane.

Applicant position

8.7.6. I note the future road alignment for Rathbeale Rd indicated in the application (Transport Statement, Section 4.2 'Future Cycle Routes'; Design Statement, Section 2.7 'Allowance for Road Widening for Cycle Lanes'; and associated drawings incl. No 23068-TNT-XX-XX-DR-C-95000-P03). I note the points made in the Transport Statement that the future cycle land can be accommodated with the layout as proposed; that the NTA Cycle Design Manual calls for a 2m cycle lane width but with a minimum of 1.5m; that the applicant justifies this minimum due to being close to the junction where overtaking cyclists is less likely; and that this was agreed with the Planning Authority. The response to further information indicated a reservation of 13.75m was generally achievable along Rathbeale Road (drawing no. WS_02_03) rather than the minimum of 14.3m stated by Planning Authority as being required.

8.7.7. The appellant also makes the point that the above-referenced policies are not site-specific but instead are general policy objectives, and that the reservation referenced by the Planning Authority is not based on a formally confirmed infrastructural project for the upgrade of Rathbeale Road. I consider that given the level of detail referenced in terms of road widths set out by the Planning Authority, that there is merit in this point. In the interests of completeness, I see no record of proposals for road upgrading or widening on the case file or in the public domain beyond those set out by the applicant. I also note that the NTA 2022 GDA Cycle Network identifies the relevant routes but does not set out plans or site-specific dimensions for each route.

8.7.8. I address the proposed building interface with Rathbeale Road separately below.

NTA guidance

8.7.9. The refusal reason refers to the NTA 2022 GDA Cycle Network. I note that Development Plan Objective CMO24 ‘NTA Strategy’ as referenced in the refusal reason seeks to support the NTA in implementing the NTA Strategy including the GDA Cycle Network. The NTA 2022 GDA Cycle Network (drawing title ‘2022 Greater Dublin Area Cycle Network Plan – Swords, Malahide & Portmarnock’) indicates that both Rathbeale Rd and Watery Lane adjacent the site are secondary cycle routes. I note these routes are not shown in the County Development Plan.

8.7.10. In their respective reports both the appellant and Planning Authority refer to the NTA Cycle Design Manual in relation to the proposals. That document is not a Section 28 Ministerial Guideline nor mentioned in the County Development Plan. I note the Manual sets out guideline dimensions for cycle and road infrastructure, but no plans or site-specific dimensions for each route are provided.

8.7.11. Having reviewed the foregoing I consider there is no specific required reservation width, but that NTA guidance provides a degree of latitude to take account of and respond to local conditions. Both the Planning Authority and NTA Cycle Design Manual set out potential for flexibility in this regard. In this regard, the NTA Cycle Design Manual sets out guidance for cycle infrastructure design, including cycle lane width. Section 1.4 ‘Relaxations and Departures’ states the following:

- *“Designers should always aim to design cycle facilities in accordance with the guidance in this manual. In some situations the manual provides a degree of flexibility for designs by stating desirable minimum and absolute minimum*

values. Designers should aim to achieve at least desirable minimum values in all cases. Where desirable minimum values cannot be achieved, incremental reductions towards absolute minimum values should be considered. For example, the manual states that the desirable minimum width for a one-way cycle track with peak flows less than 300 cycles per hour is 2 metres, with an absolute minimum width of 1.5 metres. If the 2m desirable minimum width cannot be achieved on part of a given cycle scheme, then designers should look to provide the widest facility possible between 1.5m and 2m rather than simply reducing the width to 1.5m. Where a proposed scheme or part thereof does not meet the requirements of this manual, a departure or derogation from standard should be sought and approved in accordance with the requirements stated in the Department of Transport circular “NGS Circular 2 of 2022” mentioned above, prior to the relevant design element being incorporated into the works.”

8.7.12. I note further provisions in relation to cycle infrastructure widths are set out in Section 2.6 ‘Width Calculator’. I also note the application includes no information on peak flows along this route.

Assessment

8.7.13. Regarding the nature of the existing roads, I note the existing road alignment generally provides good visibility, however there is a notable incline on Rathbeale Rd with a number of existing residential accesses on the southern side of the road.

8.7.14. I have had regard to the information on file, and to the technical provisions in the NTA Cycle Design Manual and the broader road design and layout guidance set out in DMURS in relation to road, footpath, and cycle lane widths, including in relation to related clearances and buffer widths.

8.7.15. Whilst I am satisfied there is a robust local policy basis for the provision of this cycle infrastructure, and that the appellant appears to have no objection in principle in this regard, I consider the main issue is the basis for, and appropriateness of, the space to be provided as proposed by the applicant and as sought by the Planning Authority.

8.7.16. I consider the core issue in this regard is a difference in consideration of technical road design matters regarding the appropriate space (reservation and setback) for the secondary cycle way and related future road upgrading including footpaths, and a

difference of interpretation of the relevant guidance. I consider there is merit in the positions of both Planning Authority and the appellant, however I am not satisfied that either the applicant or Planning Authority has clearly stated their rationale for the specific distances proposed and required.

- 8.7.17. In this regard, I acknowledge the appellant point that the burden of provision of space for this section of the cycle infrastructure appears to fall solely on the subject site. Conversely however I do not consider the applicant has clearly demonstrated why the lesser dimensions proposed are appropriate in this case and would appropriately facilitate the provision of the subject cycle infrastructure in line with the Development Plan. I also see limited evidence as to why the site (approx. 2ha) could not accommodate the additional width sought. I consider the dimensions sought by the Planning Authority are reasonable and generally accord with national guidelines.
- 8.7.18. Given the limited information provided, and given the details set out in NTA and Departmental guidance, and noting the size of the site, and taking a precautionary approach to ensure the appropriate provision of the identified cycle network, I do not consider the appellant has clearly demonstrated that the proposed development complies with the provisions of Development Plan Objectives CMO6, CMO24 and DMSO116, or demonstrated the overall appropriateness of the proposed layout. Having regard to the available information set out in the application and response to further information, and having regard to the policy requirements to support provision of cycle infrastructure in the area, I am not satisfied that permission should be granted in the absence of clarity as to the appropriateness of the proposed development having regard to delivery of the referenced transportation infrastructure.

Revised proposal

- 8.7.19. The revised proposal sets out revisions to the site layout in this regard. A minimum width for future road upgrades of 14.3m is indicated as sought by the Planning Authority. All elements of the proposed works with the exception of the proposed landscaping and access ramps along Rathbeale Rd are located outside the area shown for future road upgrading. This includes the proposed cargo bike stand which is relocated to the west outside the indicated 14.3m zone of road widening. The previously indicated terraces (Options A & B) are omitted. Inset balconies are proposed for each ground floor apartments. In addition to the 14.3m minimum road

widening zone sought by the Transportation Section, the additional approx. 2.4m undeveloped reservation along the entire site boundary with Rathbeale Road stated as being preferred by the Planning Authority is also provided (indicated as a landscaped garden, drw. No. WS-02-03-Rev.A, submitted with the appeal). The 14.3-14.7m space for road widening along Watery Lane is retained.

- 8.7.20. However, the Planning Authority response requests the Commission uphold the Decision in this regard.
- 8.7.21. Having regard to the revised proposals submitted, and to the layout and finished levels indicated, I am generally satisfied the revised proposal addresses the concerns stated by the Planning Authority in this regard, and achieves the setback and reservation sought by the Planning Authority. Having reviewed relevant NTA and Departmental guidance, including the NTA Cycle Manual and DMURS, I am satisfied the revised proposal is generally acceptable, and complies with Development Plan Objectives DMSO116, CMO6 and CMO24.
- 8.7.22. Regarding the design interface of Block 1 with Rathbeale Road, I addressed aspects of this matter above in relation to the increased set-back and revised levels. The revisions show that the degree to which the ground floor apartment finished floor levels would be below the road have been significantly reduced, and that some apartments would be above the road level. I note the proposed landscaping and boundary treatments along the south-western elevation of Block 1. I also note that whilst no section drawings of the proposed access ramps are shown, from review of the revised plans I am satisfied the revised finished levels allow for universal access to be achieved for the development in relation to both the existing Rathbeale Road and the future upgraded road as indicated. Accordingly, I am generally satisfied the revised proposal addresses the refusal reason satisfactorily in relation to ground levels and interface with Rathbeale Road subject to conditions for detailed design.
- 8.7.23. Regarding conditions, whilst provision of the road upgrade and cycle infrastructure are not proposed as part of this application and no conditions are required in this regard, I consider that matters of design detail relating to the development interface with the roadway are warranted to ensure appropriate details of finished levels, materials and boundary treatments are agreed prior to commencement and ahead of any road upgrade and provision of cycle and road infrastructure in the area.

8.8. Conclusion

- 8.8.1. Above I have considered the proposed development as set out in response to further information in the context of the refusal reasons. Whilst I consider the development as proposed at further information stage (Option 1) did not warrant refusal on grounds of refusal reason 1, I consider that refusal on grounds of reasons 2 and 3 was, in general, warranted. I consider that Option 2 as proposed at further information stage warranted refusal for all three reasons. I set out above my differing considerations to that of the Planning Authority in relation to each refusal reason.
- 8.8.2. I also considered the revised proposal as submitted to the Commission with the appeal. As set out above I am satisfied the revised proposal satisfactorily addressed the refusal reasons, subject to conditions. In the interests of clarity, I note the revised proposal as submitted corresponds closely with Option 1 as submitted in response to further information. I am also satisfied the revised proposal satisfactorily addresses the reasons for refusal on the previous application on the site (Ref. F24A/0385E).
- 8.8.3. I set out my considerations in relation to material contravention above.

8.9. Related matters raised in the course of the appeal

Access

- 8.9.1. The submitted Transport Assessment set out analysis of the accessibility of the site. I have had regard to the submitted architectural drawings and Transport Assessment as well as the assessment set out in the Planning Authority internal reports.
- 8.9.2. Regarding access, vehicular accesses are proposed from Watery Lane. Swept-path analyses are submitted for cars and fire tender from Watery Lane, and for refuse collection on Rathbeale Road. Watery Lane and Rathbeale Road are the main roads serving the site. I consider both are in good condition in terms of width and alignment. The adjacent junction is traffic-light controlled. The site is in a 50kmh zone. I consider that good visibility from and of the proposed accesses has been demonstrated. The final Transportation Section report raised no objection in principle in this regard. I consider the submitted proposals are generally acceptable.
- 8.9.3. Regarding traffic impact, I note the points made by observers in relation to traffic in the area. A total of 18 no. car parking spaces are proposed. Cycle and motorcycle

parking is proposed. The site is a short walk to Swords Main Street. The Transportation Section raised no objection in principle in this regard. Given the extent of parking proposed; the proposed access arrangements; and the site location in Swords, I do not consider the additional vehicle load on the adjacent road network and junction, and the associated traffic movements, would have a significant detrimental impact on the safety and efficiency of the road network. Overall, I am satisfied the proposal is acceptable in this regard.

- 8.9.4. Regarding parking provision, 18 no. car parking spaces are proposed. I note the rationale submitted in the Transportation Assessment, and the assessment of the Transportation Section which raised no objection in this regard. I note the location of the site which is a short walk to Swords town centre and is well served by pedestrian and public transport. I am satisfied the proposed provision is acceptable and generally complies with the Development Plan and national guidelines in this regard.

Revised proposal

- 8.9.5. As part of the appeal the proposed car park layout is altered to resolve matters raised by the Planning Authority in relation to finished levels and setback from Rathbeale Road. I have addressed those matters above. In relation to the revised vehicular access layout, the access points to Watery Lane and Rathbeale Road remain largely unchanged, as does the proposed parking provision. In relation to traffic impact and road safety, and the efficiency of the road network, overall I am satisfied the revised access layout is acceptable.
- 8.9.6. Regarding development to the east of the site across Watery Lane, I note the observation from SK Biotek, and the nature of operations and potential impacts in this regard including in relation to heavy goods vehicle access, and parking. I note that on-street parking in the area is controlled, and the road markings in the area including outside the SK Biotec site. I am satisfied the parking provision and access arrangements proposed will not likely give rise to significant issues in this regard.
- 8.9.7. Regarding conditions, whilst I note again that provision of road upgrading and cycle infrastructure are not proposed as part of the subject application, I consider that a condition for the agreement of design details of the proposed interface with Rathbeale Road is warranted to ensure appropriate detailed design ahead of road upgrading and the provision of cycle land infrastructure in the area.

Public open space

- 8.9.8. No public open space is proposed. The applicant proposes a contribution in lieu. The Planner and Parks & Green Infrastructure Division reports stated that a contribution in lieu was required. The Development Plan and Contributions Scheme does not set out corresponding rates. The Parks report also stated that a revised open space layout to provide for play facilities was required by condition. I note the Development Plan allows for the payment of contributions in lieu of public open space and play facilities, however I consider that play facilities should be provided on site. Given the size and location of the site, and its proximity to Town Park open space to the east (approx. 80m away) and to Swords Community Park (approx. 215m away) I am satisfied that the recommended approach is acceptable, aligns with related Development Plan Objectives, and can be achieved by condition.

Noise

- 8.9.9. I note the points made in the DAA Observation and in the Planning Authority Air & Noise Section report, and recommended noise mitigation. I also note points made regarding noise in the SK Biotek observation in relation to their operation to the east. Regarding airport noise zones, the site is within Zone D. Accordingly, I consider that additional noise mitigation in the form of sound insulation is warranted generally as set out in the DAA Observation and that this can be addressed by condition. I am generally satisfied this would also respond appropriately to the matters raised in the Planning Authority Air & Noise Section report and SK Biotec submission.

Water & Drainage

- 8.9.10. The Water Services Section report indicated no objection subject to standard surface water conditions. No significant issues were raised in this regard in the application or appeal. Public mains water supply is available in Rathbeale Road. The site is to drain to existing mains foul and surface water infrastructure in the junction of Rathbeale Road and Watery Lane. Sustainable drainage systems are proposed. A Confirmation of Feasibility from Irish Water is submitted (for 40 no. units) which indicates water and wastewater connections are feasible without upgrades. The submission from Uisce Eireann stated no objection subject to standard conditions. This is acceptable.

8.9.11. Regarding flood risk, I note concerns raised by Observers in this regard in relation to Watery Lane. The submitted Flood Risk Assessment indicated no significant risks in this regard. Publicly available floor mapping data also indicates no significant risks.

8.9.12. I am satisfied the proposal is acceptable in these regards subject to conditions.

Ecology

8.9.13. I have reviewed the submitted Ecological Impact Assessment report. I note that no protected or invasive species were identified on the site. Section 5.0 sets out recommended mitigation. I address potential impacts on bats and European Sites separately. Regarding trees, I note findings of the submitted Tree Survey Report, the quality and number of existing trees, the recommendation that all trees on site should be removed, and that corresponding tree planting be undertaken on the site. Tree planting on site is proposed. Given the urban nature of the site, the existing development on site, and the relatively low sensitivity of the site in these regards, I am satisfied the proposals in this regard are acceptable subject to the attachment of a condition for the implementation of the recommended mitigation in Section 5.0 of the Ecological Impact Assessment report.

8.9.14. Regarding bats, a Bat Survey & Report was submitted. The survey was undertaken at the end of September 2024. It indicated low bat activity on site and suggested bats were commuting through the site. No evidence of bat roosting in the structures on site was recorded. The structures and trees on site were assessed as having low/no bat roost potential. Mitigation to compensate for the potential loss of roosting opportunities due to the removal of all trees on site was proposed (Section 4, Section 4.1 and Section 5). Mitigation related to: installation of bat bricks / bat tubes in the new building façades; consideration of incorporating crevice-dwelling bat boxes on boundary walls; and consideration of external bat boxes on new buildings. Recommendations relating to the timing of works were also set out (Section 4.2). Section 4.3 addressed lighting for bats and set out recommendations in this regard. I am satisfied the submitted information is acceptable in this regard, subject to the attachment of the recommended conditions in relation to bat mitigation.

Lighting

8.9.15. The Public Lighting Section report stated that a lighting design should be submitted, and that approval in writing for alteration of existing public lighting is required. In

response to further information the applicant submitted an Outdoor Lighting report and a Lighting Impact Assessment report. The Lighting Impact Assessment indicated the proposed lux levels are acceptable. The submitted Bat Survey & Report (Section 4.3) and Ecological Impact Assessment (Sections 5.2.2 and 5.4) set out related recommendations in this regard. I am satisfied these matters of detailed design can be addressed by a condition for the agreement of a lighting plan to incorporate the Bat Survey & Report (Section 4.3) recommendations.

Construction management

8.9.16. I note related points made in some of the Observations on file. No Construction Management Plan (CMP) or Construction Environment Management Plan (CEMP) were submitted. I note points made in relation to construction management in the Environment Department report, the submitted Archaeological Impact Assessment, the Ecological Impact Assessment report, and Bat Survey & Report. I also note the recommendation for agreement of a CEMP in the submitted NIS. In this context, and given the proximity to nearby houses, and the site location on the local road network, I consider that conditions for the agreement of a CMP and a CEMP are required.

Previous reasons for refusal

8.9.17. Having regard to the foregoing, I am generally satisfied the reduced proposal as revised in this appeal satisfactorily addresses the 3 no. previous reasons for refusal (Reg. Ref. F24A/0385E) on the site.

Conditions

8.9.18. In addition to the conditions referenced above, I also consider the following:

- Waste: I note the revised refuse storage area layout submitted in response to further information. The Environment Department report recommended conditions relating to resource waste management; further information or conditions relating to operational waste management, and attachment of a note on asbestos. I am satisfied the matters raised can be addressed by conditions relating to submission of a resource waste management plan to include asbestos related matters, and submission of an operational waste management plan.
- Archaeology: I note the submitted Cultural Heritage Desktop Appraisal and Archaeological Impact Assessment (AIA). The AIA recommends standard

archaeological monitoring conditions. The final Heritage Officer report recommended standard archaeological monitoring conditions. I am satisfied standard a condition for archaeological monitoring of groundworks is appropriate.

- Landscaping: Landscape plans and a Landscape Management Plan were submitted. I note the Parks & Green Infrastructure Division report recommended a condition for a revised plans in this regard. I am satisfied the proposed development is generally acceptable in this regard, subject to the attachment of standard conditions for the agreement of landscaping details.
- Natura Impact Statement: Conditions requiring implementation of the mitigation in the submitted NIS as per Section 9 and Appendix 2 of this report is required.
- Part V: The Housing Section report considered the submitted proposals were acceptable subject to conditions. I note additional points in the report regarding universal access. I consider these matters can be addressed by condition.
- Naming & numbering: Conditions for the agreement of such details are required.
- Management: Conditions for the management of the development are required.
- Regulation of Commercial Institutional Investment in Housing: I note the layout and floor plans for Block 2. To ensure the appropriate regulation of the development as per the Regulation of Commercial Institutional Investment in Housing Guidelines 2023 I consider that a condition is warranted in this regard.
- Contributions: Standard Section 48 conditions, including contribution in lieu in relation to public open space are required.

9.0 **Appropriate Assessment screening**

9.1.1. Refer to Section 8 and Appendix 2 of this report.

Screening

9.1.2. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this screening, I conclude that it is not possible to exclude the proposed development alone or in combination with other plans and projects will give rise to significant effects on Malahide Estuary SPA (Ref. 004025) and Malahide Estuary SAC (Ref. 000205)

European Sites in view of the sites' conservation objectives. Appropriate Assessment is required. This determination is based on:

- The Zone of Influence of potential impacts;
- Information presented in the submitted AA Screening report and NIS;
- Qualifying interests, special conservation interest and conservation objectives of the European sites.
- Surface hydrological pathways to European Sites via the Ward River and potential for construction/operational impacts upon the European Sites.

Stage 2 Appropriate Assessment

9.1.3. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on Malahide Estuary SPA (Ref. 004025) and Malahide Estuary SAC (Ref. 000205) European Sites in view of the conservation objectives of those sites and that Appropriate Assessment under the provisions of S177U was required.

9.1.4. Following examination, analysis and evaluation of the NIS all associated material, I consider that adverse effects on site integrity Malahide Estuary SPA (Ref. 004025) and Malahide Estuary SAC (Ref. 000205) European Sites can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects. My conclusion is based on:

- Detailed assessment of construction and operational impacts;
- The proposed development will not affect the attainment of conservation objectives for Malahide Estuary SPA (Ref. 004025) or Malahide Estuary SAC (Ref. 000205) European Sites to maintain and/or restore the favourable conservation condition for these Sites;
- Effectiveness of design features and mitigation measures proposed and adoption of the CEMP.
- Application of conditions to ensure these matters if permission is granted.

10.0 Water Framework Directive

10.1.1. The subject site is located approx. 215m north-west of the Ward River. The proposed development comprises demolition of sheds and construction of 36 apartments in two blocks. No water deterioration concerns were raised in the planning appeal. I have assessed the project and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status, and prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively, or otherwise jeopardise any water body in reaching its WFD objectives. The reason for this conclusion is the nature of the development; its location in a serviced urban area; and the location-distance from nearest Water bodies and lack of hydrological connections. I conclude that on the basis of objective information, the proposed development will not result in a risk of deterioration on any water body either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

11.0 Recommendation

11.1.1. I recommend permission be **Granted**, for the reasons and consideration below.

12.0 Reasons and Considerations

Having regard to policies, objectives and provisions of the Fingal County Development Plan 2023-2029, including to the 'RS Existing Residential' land use zoning objective for the area which seeks to provide for residential development and protect and improve residential amenity; as well as to the relevant provisions of the Sustainable Residential Development & Compact Settlements 2024 and the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities 2023; and having regard to the nature, scale, form, height, layout and design of the proposed apartment development; and to the topography and pattern of development in the area; on balance it is considered that the proposed

development as revised at appeal stage would generally align with the provisions of the County Development Plan and the provisions of relevant national guidelines, and would not impact unduly on residential or visual amenities, character, road traffic conditions, or the local environment, and that therefore the proposed development would generally accord with the proper planning and sustainable development of the area, subject to the conditions below.

13.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the Planning Authority on the 6th June 2025, and as further revised by plans and particulars received by An Coimisiún Pleanála on the 25th August 2025, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of development, the Developer shall submit for the written agreement of the Planning Authority, revised floor plans and elevations to demonstrate:</p> <p>(i) the appropriate provision of internal storage, and the appropriate accessibility from internal living areas to private amenity spaces, for each apartments in line with relevant provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2023;</p> <p>(ii) the inclusions of visual and acoustic screening along the rooftop boundaries of the communal amenity space on Block 1.</p> <p>Reason: In the interests of residential amenity.</p>
3.	<p>Building noise insulation shall be provided to an appropriate standard having regard to the location of the site within Dublin Airport Noise Zone D.</p>

	Reason: In the interest of residential amenity and to ensure compliance with Objective DMSO105 of the Fingal Development Plan 2023-2029.
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed structures/buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.</p>
5.	<p>A revised site layout plan shall be submitted for the written agreement of the Planning Authority demonstrating appropriate provision of play facilities to serve the development.</p> <p>Reason: In the interests of residential amenity</p>
6.	<p>Prior to the commencement of development, the Developer shall submit for the written agreement of the Planning Authority, plan, section and elevation drawings showing design details for the interface of the development with Rathbeale Road, to include details of finished levels, materials, boundary treatments, construction, planting and landscaping.</p> <p>Reason: In the interests of sustainable transport and orderly development.</p>
7.	<p>The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>Reason: To prevent flooding and in the interests of sustainable drainage.</p>
8.	<p>Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
9.	<p>The mitigation measures contained in the submitted Ecological Impact Assessment (Section 5.0) prepared by ASH Ecology & Environmental and submitted to the Planning Authority on the 12th December 2024, shall be</p>

	<p>implemented.</p> <p>Reason: To protect the local biodiversity and habitats.</p>
10.	<p>The mitigation measures contained in the submitted Bat Survey & Report (Sections 4.0 and 5.0) prepared by ASH Ecology & Environmental and submitted to the Planning Authority on the 12th December 2024, shall be implemented.</p> <p>Reason: To protect local wildlife.</p>
11.	<p>The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.</p> <p>Reason: To protect the integrity of European Sites.</p>
12.	<p>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. Such lighting shall be provided prior to the making available for occupation of any residential unit.</p> <p>Reason: In the interest of amenity and public safety.</p>
13.	<p>Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of public safety and amenity.</p>
14.	<p>A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for sediment, containment of concrete, washing areas, fuel, oil & chemical storage, emergency response, measures to reduce & prevent suspended solids pollution; and measures to reduce or eliminate pollution from other substances, and project roles and responsibilities.</p> <p>Reason: In the interest of environmental protection [residential amenities, public health and safety and environmental protection.</p>

15.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste, asbestos waste, and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of proper planning and sustainable development.</p>
16.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
17.	<p>The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development following consultation with the National Monument Service (NMS). Prior to the commencement of such works the archaeologist shall consult with and forward to the NMS a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the NMS, regarding appropriate mitigation incl. preservation in-</p>

	<p>situ/excavation. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.</p> <p>Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.</p> <p>Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.</p>
18.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <ul style="list-style-type: none"> (a) A plan to scale of not less than 1:500 showing – <ul style="list-style-type: none"> (i) Existing trees and hedgerows, specifying which are proposed for retention as features of the site landscaping (ii) The measures to be put in place for the protection of landscape features during the construction period (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species (iv) Details of screen planting which shall not include cupressocyparis x leylandii (v) Details of roadside/street planting which shall not include prunus species (vi) Hard landscaping works, specifying surfacing materials, furniture [play equipment] and finished levels. (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment (c) A timescale for implementation [including details of phasing] <p>All planting shall be adequately protected from damage until established. Any</p>

	<p>plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
19.	<p>Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility [and to ensure the use of locally appropriate placenames for new residential areas].</p>
20.	<p>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 accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.</p>

21.	<p>The management and maintenance of the proposed 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 or parts of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To ensure the satisfactory completion and maintenance of this development.</p>
22.	<p>The following shall be complied with:</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>

	<p>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.</p>
23.	<p>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 Coimisiún Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
24.	<p>The developer shall pay to the planning authority a financial contribution as a contribution lieu of the public open space requirement in respect of public open space benefitting the development in the area of the planning authority is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the adopted Development Contribution Scheme made under Section 48 of the Planning and Development Act 2000, as amended. The 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.</p> <p>Reason:</p> <p>It is a requirement of the Planning and Development Act, 2000, as amended, that a condition requiring contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.</p>

-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.-

Dan Aspell
Inspector
5th December 2025

APPENDIX 1

Form 1: EIA Pre-Screening

Case Reference	ABP-323489-25
Proposed Development Summary	Demolition of sheds and construction of 36 no. apartments.
Development Address	Lands at junction of Rathbeale Road and Watery Lane, Swords.
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	
	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required.	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 10(b)(i) Construction of more than 500 dwelling units. Class 10(b)(iv) Urban developments
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: __ 25th November 2025 __

Form 2: EIA Preliminary Examination

Case Reference	ABP-323489-25
Proposed Development Summary	Demolition of sheds and construction of 36 no. apartments.
Development Address	Lands at junction of Rathbeale Road and Watery Lane, Swords.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development	Proposed development comprises 36 no. dwellings within an urban neighbourhood of Swords. The site area is stated as 2ha. The proposed development has a modest footprint, comes forward as a standalone project, requires modest demolition works, does not require the use of substantial natural resources, or give rise to production of significant waste, significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, human health or is vulnerable to climate change.
Location of development	The development is located in a large town on urban lands that were previously used / developed. The receiving location is not particularly environmentally sensitive and is removed from sensitive natural habitats, designated sites and identified landscapes of significance in the County Development Plan. The site is not of significant historic or cultural significance or near Protected Structures, or in an Architectural Conservation Area, but is within an area of local archaeological interest. However, given the scale and nature of development and mitigation proposed there will be no significant environmental effects arising.
Types and characteristics of potential impacts	Having regard to the characteristics and modest nature of the proposed development, the sensitivity of its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** 25th November 2025
DP/ADP: _____ **Date:** _____

APPENDIX 2

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics.				
Brief description of project		Demolition of sheds and construction of 36 no. apartments.		
Brief description of development site characteristics and potential impact mechanisms		The site comprises a previously developed site in an urban area. The topography is sloping. The application red line area is stated as 2ha. The site boundary comprises walls and fencing. The Ward River (IE-EA-08W010610) is approx. 215m to the north-west. Malahide Estuary SAC is approx. 1.36km and Malahide Estuary SPA is approx. 1.38km to the north-east of the site.		
Screening report		Y		
Natura Impact Statement		Y		
Relevant submissions		N		
Additional information: The following information was submitted with the application: <ul style="list-style-type: none"> • Appropriate Assessment Screening report and Natura Impact Statement (NIS). • Ecological Impact Assessment Report • Bat Survey & Report • Tree Survey Report • Flood Risk Assessment • Civil Engineering Report 				
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
The site is not located within or directly adjacent to any designated European sites. The applicant NIS identified a large number of Sites within 15km, and also Sites within a zone of influence. It references potential indirect water impacts on the qualifying species and habitats of Malahide Estuary SAC and Malahide Estuary SPA. Following the source-pathway-receptor model and, having considered the findings of the accompanying reports with the application and appeal, the submitted AA Screening report and NIS, the details of the site's existing and proposed infrastructure; the intervening distance between the development site and the above listed SAC and SPA; it has been determined that only the European designated Sites within the zone of influence of the project on account of potential indirect hydrological pathways between the appeal site and these Sites arising from surface-water discharges, during the construction and operational phases.				
European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Malahide Estuary SPA (004025)	https://www.npws.ie/protected-sites/spa/004025	0.205km	Indirect hydrological pathways between the appeal site arising from surface-water discharges via the Ward River.	Y
Malahide Estuary SPA (000205)	https://www.npws.ie/protected-sites/sac/000205	0.205km	Indirect hydrological pathways between the appeal site arising from surface-water discharges via the Ward River.	Y
¹ Summary description / cross reference to NPWS website is acceptable at this stage in the report. ² Based on source-pathway-receptor: Direct/ indirect/ tentative/ none, via surface water/ ground water/ air/ use of habitats by mobile species. ³ if no connections: N.				
Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites				
Based on the abovementioned documents I consider the following. There is no potential for direct effects. The habitats within the site are not of value for qualifying species of Natura 2000 sites within the Zone of Influence. The apartment site does not provide suitable habitats/environments for these QI Species of the above SACs and SPAs. No ex-situ impacts on qualifying species of the above SPAs and SACs are considered likely.				

Potential for significant effects was identified in the form of water quality impacts via the during construction and operation of the proposed development via indirect pathways to European Sites (esp. hydrological connection to Malahide Estuary through the Ward River). This is due primarily to the site proximity and potential hydrological connection to the Sites and potential impact on habitats or birds which may depend on them.

During the construction phase there are potential impacts relating to pollution of watercourses by surface runoff and other construction disturbances if works are carried out unmitigated.

During the operational phase there are potential impacts relating to pollution of watercourses by surface runoff.

The impacts described above could impact habitats and bird species within the above SPAs and SACs due to impacts on habitats upon which the habitats or birds species depend.

Design mitigation measures are listed in Section 4.0 of the NIS. Corresponding design measures and mitigation are set out within the Civil Engineering Report submitted during the application process. The measures are standard measures and good practices designed to protect water quality during the construction and operational phases. During construction, they include sediment control, water quality & hazardous materials controls, assessment and monitoring or mitigation measures, SuDS (attenuation), and a construction environment management plan (CEMP).

Regarding in combination effects, there is evidence that there are other plans and projects that could lead to significant in-combination impacts on the Natura 2000 sites cited above, nor on any other Natura 2000 sites.

The matrix below identifies possible significant effects on the European sites in view of the conservation objectives (alone or in combination with other plans and projects).

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects in view of the conservation objectives of the site*	
	Impacts	Effects
<p>Site 1: Malahide Estuary SPA (004025) A005 Great Crested Grebe Podiceps cristatus A046 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 alpina A156 Black-tailed Godwit Limosa limosa A157 Bar-tailed Godwit Limosa lapponica A162 Redshank Tringa totanus A999 Wetlands The Conservation Objectives for the SAC are to maintain the favourable conservation conditions of the identified Qualifying Interests. I consider the project would not compromise the achievement of this objective.</p>	<p>The project is not directly connected with or necessary to the management of a European Site.</p> <p>The proposed development will not result in any direct effects such as habitat loss on any European site.</p> <p>There is sufficient distance and development separating the site from Malahide Estuary to avoid the possibility of significant effects, however given the topography of the area, and proximity to the Ward River, managing impacts of development on the site's potential surface water hydrological connectivity via the Ward River warrants further assessment and mitigation.</p>	<p>Changes to habitat quality arising from deterioration in water quality.</p> <p>The potential negative effect on habitat quality may undermine conservation objectives associated with the QI for which the site is designated.</p> <p>Possibility of significant effects cannot be ruled out without mitigation and further analysis & assessment.</p>
Y	Likelihood of significant effects from proposed development (alone): Y/N	
N	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
Y	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects

<p>Site 2: Malahide Estuary SAC (000205) 1140 Mudflats and sandflats not covered by seawater at low tide 1310 Salicornia and other annuals colonising mud and sand 1320 Spartina swards (Spartinion maritimae) 1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae) 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) The Conservation Objectives for the SAC are to maintain and/or restore the favourable conservation conditions of the identified Qualifying Interests. I consider the project would not compromise the achievement of this more difficult objective.</p>	<p>The project is not directly connected with or necessary to the management of a European Site.</p> <p>The proposed development will not result in any direct effects such as habitat loss on any European site.</p> <p>There is sufficient distance and development separating the site from Malahide Estuary to avoid the possibility of significant effects, however given the topography of the area, and proximity to the Ward River, managing impacts of development on the site's potential surface water hydrological connectivity via the Ward River warrants further assessment and mitigation.</p>	<p>Changes to habitat quality arising from deterioration in water quality.</p> <p>The potential negative effect on habitat quality may undermine conservation objectives associated with the QI for which the site is designated.</p> <p>Possibility of significant effects cannot be ruled out without mitigation and further analysis & assessment.</p>
Y	Likelihood of significant effects from proposed development (alone): Y/N	
N	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	
Y	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
Impacts		Effects
* Where a restore objective applies it is necessary to consider whether the project might compromise the objective of restoration or make restoration more difficult.		
<p>Further Commentary / discussion Due to the nature and topography of the area, proximity to the Ward River, and proximity and indirect hydrological connection to the Malahide Estuary, I consider that at this stage I cannot exclude that the proposed development would not generate impacts that could affect site within the identified zone of influence on ecological receptors without mitigation and further analysis & assessment. The potential exists for pollutants such as water borne pollution to be mobilised from the development site by runoff to surface water pathways during construction or operational phases and transported downstream into the European sites which could adversely affect QIs for which the Sites have been designated.</p>		
<p>Step 4 Conclude if proposed development could result in likely significant effects on a European site.</p>		
<p>It is not possible to exclude the possibility that proposed development either alone or in combination with other plans and projects would result in significant effects Malahide Estuary SAC and Malahide Estuary SPA European site(s) from effects associated with potential water quality deterioration.</p>		
<p>Proceed to AA.</p>		

<p>Screening Determination Significant effects cannot be excluded In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone or in combination with other plans and projects will give rise to significant effects on Carlingford Shore SAC; Carlingford Lough SPA (UK9020161) and Carlingford Lough SPA (004078) in view of the sites' conservation objectives. Appropriate Assessment is required. This determination is based on:</p> <ul style="list-style-type: none"> • The Zone of Influence of potential impacts. • Information presented in the submitted AA Screening reports and NIS. • Qualifying interests, special conservation interest and conservation objectives of the European sites. • Hydrological Pathway to the European site via surface water at construction/operational stages to European sites.
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Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed development of 36 apartment units; all associated site works; demolition; surface and foul water drainage infrastructure which comprises connection to existing water drainage infrastructure, in view of the relevant conservation objectives of (1) Malahide Estuary SPA (004025) and (2) Malahide Estuary SAC (000205) based on scientific information including that provided by the applicant.

The information relied upon includes the following:

- Appropriate Assessment Screening report and Natura Impact Statement (NIS).
- Ecological Impact Assessment Report
- Bat Survey & Report
- Tree Survey Report
- Flood Risk Assessment
- Civil Engineering Report

I am satisfied the information provided is adequate to allow for Appropriate Assessment. I am satisfied all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures are included and assessed for effectiveness.

Submissions/observations

No issues related to AA raised in submissions.

Malahide Estuary SPA (004025)

Summary of Key issues that could give rise to adverse effects (from screening stage): (i) Water quality degradation (construction and operation) (See Section 4 NIS)

Qualifying Interest features likely to be affected.	Conservation Objectives Targets and attributes summary.	Potential adverse effects.	Mitigation measures (summary) (Section 4 in NIS)
A005 Great Crested Grebe Podiceps cristatus A046 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 alpina A156 Black-tailed Godwit Limosa limosa A157 Bar-tailed Godwit Limosa lapponica A162 Redshank Tringa totanus	Maintain favourable conservation condition	Potential negative indirect impacts on surface-water quality due to construction and/or operation emissions or pollution event including construction runoff to the surface water network or Ward River. Potential changes in local hydrology. Potential introduction of invasive species.	<u>Water quality:</u> <u>Construction phase:</u> Detailed CEMP incl. sediment control, containment of concrete mixing and washing areas; fuel, oil & chemical storage; emergency response plan; measures to reduce & prevent suspended solids pollution; and measures to reduce or eliminate pollution from other substances. <u>Operational phase:</u> SUDS; maintenance of drainage system; car parking area interceptor. <u>Hydrology:</u> Proposed construction levels, lack of basement, and bunding & storage <u>Invasive species:</u> Measures for avoiding the introduction and spread of non-native invasive species to follow best practice guidance documents.

A999 Wetlands			
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The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.

Malahide Estuary SAC (000205)
Summary of Key issues that could give rise to adverse effects (from screening stage): (i) Water quality degradation (construction and operation) (See Section 4 NIS)

Qualifying Interest features likely to be affected.	Conservation Objectives Targets and attributes summary.	Potential adverse effects.	Mitigation measures (summary). (Section 4 in NIS)
1140 Mudflats and sandflats not covered by seawater at low tide 1310 Salicornia and other annuals colonising mud and sand 1320 Spartina swards (Spartinion maritimae) 1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae) 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)	Maintain and/or restore favourable conservation condition	Potential negative indirect impacts on surface-water quality due to construction and/or operation emissions or pollution event including construction runoff to the surface water network or Ward River. Potential changes in local hydrology. Potential introduction of invasive species.	<u>Water quality:</u> <u>Construction phase:</u> Detailed CEMP incl. sediment control, containment of concrete mixing and washing areas; fuel, oil & chemical storage; emergency response plan; measures to reduce & prevent suspended solids pollution; and measures to reduce or eliminate pollution from other substances. <u>Operational phase:</u> SUDS; maintenance of drainage system; car parking area interceptor. <u>Hydrology:</u> Proposed construction levels, lack of basement, and bunding & storage <u>Invasive species:</u> Measures for avoiding the introduction and spread of non-native invasive species to follow best practice guidance documents.

The above table is based on the documentation and information provided on the file and I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.

Assessment of issues that could give rise to adverse effects in view of conservation objectives

The above tables are based on the documentation and information provided on the file, as well as information as contained on the NPWS website. I am satisfied the NIS has adequately considered potential effects on each relevant qualifying interest, therefore.

Surface water falling from the site at present diverted to existing surface water mains infrastructure and percolates to ground. Section 4 of the NIS sets out proposed design and mitigation measures in detail. Corresponding measures are contained in the Engineering Report submitted with the application. The NIS considers the mitigation recommended in these reports, and the measures that are described in the NIS relating to the protection of surface water quality are sufficient in my view to ensure same are effective.

At construction phase, the identified measures include industry standard measures and good construction practice including sediment control; concrete and fuel management; and a CEMP which should avoid any such adverse effects on the European Sites during the construction phase. The Bat Survey Report and Civil Engineering Report set out corresponding mitigation relating to those specific matters, which the NIS considers in relation to Appropriate Assessment and which should also avoid significant adverse effects on the European Sites during the construction phase.

At the operational phase, design measures include standard measures and good practice including SuDS and Bat mitigation to accommodate any transient or opportunistic use of site by bats. Surface water is to drain to the exiting surface water mains outside the site and proposed SuDS measures included as part of the project include attenuation.

No ex-situ impacts on qualifying species of the above SPAs and SACs are considered likely.

The NIS considers the proposed construction & operational phase measures should prevent adverse effects on the identified European Sites or other European Sites, including as a result of the topography and indirect surface water pathways.

In-combination effects

I am satisfied that in-combination effects have been assessed in the NIS in this case. The applicant has demonstrated satisfactorily that no significant residual effects will remain post the application of mitigation measures and there is therefore no potential for in-combination effects.

Findings and conclusions

The application determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of the above European Sites. I am satisfied that the project would not compromise the objective to maintain and/or restore the favorable conservation condition of these Sites. Based on the information provided and my own assessment I am satisfied adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment. No direct impacts are predicted. Indirect impacts and mitigation measures are described to prevent ingress of surface water related pollution to the closest water bodies at construction and operational stage. I am satisfied the mitigation measures proposed to prevent adverse effects are standard practice, have been assessed as effective and can be implemented. In combination effects have also been reasonably assessed and there is no potential for combination effects

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment of the Conservation objectives of Malahide Estuary SAC or Malahide Estuary SPA European Sites. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

Appropriate Assessment Conclusion: Integrity Test

In screening the need for Appropriate Assessment it was determined the proposed development could result in significant effects on Malahide Estuary SAC and Malahide Estuary SPA European Sites in view of the conservation objectives of those Sites and that Appropriate Assessment under the provisions of S177U was required.

Following an examination, analysis and evaluation of the NIS all associated material submitted, I consider that adverse effects on site integrity of Malahide Estuary SAC or Malahide Estuary SPA European Sites can be excluded in view of the conservation objectives of these sites and that no reasonable scientific doubt remains as to the absence of such effects.

My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- The proposed development will not affect the attainment of conservation objectives for Malahide Estuary SAC or Malahide Estuary SPA European Sites to maintain and/or restore the favourable conservation condition for these Sites.
- Effectiveness of design features and mitigation measures proposed and adoption of a CEMP.
- Application of planning conditions to ensure these matters if permission is granted.