



An
Bord
Pleanála

Inspector's Report

ABP-318393-23

Development

The construction of residential development of 2-3 storey houses consisting of 52 no. units (7 no. 2 beds, 31 no. 3 beds, 8 no. 4 beds and 6 no. 5 beds) within terraced and semi-detached arrangements. Provision of car and cycle parking, new residential streets, open spaces, play area, and provision of new site entrance from the R107. All associated site development works, landscaping, boundary treatments, and services provision. A Natura Impact Statement (NIS) has been prepared in respect of the proposed development.

Location

Lands at Mabestown, Malahide Road (R107), Malahide, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F23A/0492

Applicant(s)

Beakonshaw Mables Limited

Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Beakonshaw Mables Limited
Observer(s)	Mr. Derek Snug Dr. Stan Natin & Anne Hennessy & Others Laura and John Mahony Dublin Airport Authority
Date of Site Inspection	9 th October 2024
Inspector	Emma Nevin

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1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 1.58 ha, is a substantial greenfield site located to the south of Malahide village, east of the R107 and to the south of an existing residential property, 'Mabestown House'.
- 1.2. The roadside boundary comprises mature planting for the entire length of the site, there is also mature planting within the site to the east, south and northern boundaries.
- 1.3. The site is bound by large dwellings on substantial sites to the east and south. There is a residential development under construction to the west of the R107, across the Malahide Road.
- 1.4. Access to the site is via a historic gate off the Malahide Road.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 52 no. 2-3 storey houses, as per Table 2 below. The proposed dwellings will be positioned to the north, east and southern site boundaries, and centrally within the site. Each dwelling will be served by off street car parking and a rear garden.
- 2.2. A new vehicular access is proposed to the western site boundary onto Malahide Road, with a new internal access road.
- 2.3. A new pedestrian access is proposed to the western site boundary, with a indicative pedestrian crossing across the Malahide Road. There is also a potential future access footpath to the southwest corner of the site, through the proposed area of public open space which will also link to the Malahide Road.
- 2.4. The proposed public open space is positioned to the south-western portion of the site.
- 2.5. A total of 80 no. off street car parking spaces are proposed within the scheme including 10 visitor spaces.
- 2.6. Table 1 below provides a schedule of the key figures associated with the proposed development:

Table 1 - Site / Development Details	
Site Area	1.58 ha
Gross Floor Area	6,781 sq. m.
No. of proposed units	52
Car Parking	80 spaces plus 10 visitor spaces
Bicycle Parking	273 spaces
Public Open Space	2,430 sq. m.

2.8. Table 2 below provides a breakdown of the residential unit types proposed:

Table 2 – Residential Unit Type				
House No.	House Type	Unit Size	Private Amenity Space	No of units proposed
House Type A	3 storey – corner location and front dormer (5-bed)	172 sq. m.	75 - 104 sq. m.	6 no.
House Type B	2 storey – semi-detached (4-bed) and front dormer	131 sq. m.	75 - 80 sq. m.	8 no.
House Type C1	2 storey – semi-detached and terraced dwellings (3-bed)	111 sq. m.	60 - 87 sq. m.	6 no.
House Type C2	2 storey – semi-detached and terraced gabled fronted dwellings (3-bed)	111 sq. m.	60 - 107 sq. m.	11 no.

House Type Da	3 storey – mid terrace with pitched roof and rear dormer (3-bed)	118 sq. m.	61 - 62 sq. m.	4 no.
House Type Db	2 storey – mid terrace with pitched roof (2-bed)	88 sq. m.	48 - 60 sq. m.	7 no.
House Type E	3 storey – gable fronted semi-detached dwellings (3-bed)	145 sq. m.	60 - 69 sq. m.	10 no.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission on the 11th October 2023 for the following reasons:

“1 The proposal is contrary to guidance as set out in the Urban Design Manual – A Best Practice Guide (the companion document to Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities - 2009), and would not create an attractive sense of place which would be contrary to Policy SPQHP35 and Objectives DMSO63 and DMS64 of the Fingal Development Plan 2023-2029. This is due to:

(a) The overall proposed layout results in the provision of poor quality public open space by reason of the location adjacent to the Malahide Road and constrained size of the development.

(b) The public realm is dominated by large areas of communal surface car parking in addition to the unclear shared surface layout for internal pedestrian connectivity. The

layout fails to demonstrate how specific Development Plan objectives for future road upgrades and the provision of cycling infrastructure would be incorporated into the scheme which would further compromise the layout.

To permit the proposed development would be contrary to the proper planning and sustainable development of the area.

2. Development of the kind proposed on the subject land would be premature as the applicant has failed to adequately demonstrate the nature and scope of works necessitated to achieve the required capacity within the foul network.

3. The applicant has failed to demonstrate connectivity of the proposed development to the existing pedestrian infrastructure. The proposed development is considered to endanger public safety by reason of traffic hazard in the absence of the provision of a safe and appropriate pedestrian crossing or in the absence of the means to achieve this”.

3.2. Planning Authority Reports

3.2.1. A planning Report dated 6th October 2023 has been provided.

3.2.2. The original planning report concluded that *having regard to the significant issues which have arisen as part of the assessment it is recommended that permission be refused. To address the issues raised would likely involve significant amendments to the layout and as such the applicant should reconsider the site layout to address the constraints which would inform the proposed design”*, and as such permission was refused for three reasons as noted in Section 3.1.1 above.

3.2.3. Other Technical Reports:

- Water Services: Report received requesting additional information.
- Transportation: Report received requesting additional information.
- Parks: Report received requesting additional information.
- Housing: Report received stating no objection subject to condition.
- Public Lighting: Report received stating no objection subject to condition.
- Arts/Culture: No report received.

- Ecologist: Email received, and comments noted.
- Environment: Report received stating no objection subject to condition.

3.3. Prescribed Bodies

3.3.1. The Planning Authority indicated that the following prescribed bodies were consulted.

- Uisce Eireann: Report received stating no objection subject to condition.
- Dublin Airport Authority (DAA): Report received which raises concerns regarding the potential use of cranes at the site and requests a condition that the applicant consults with the DAA in respect of crane use at this site 90 days in advance of construction.

3.4. Third Party Observations

3.4.1. 10 third party submissions were received within the statutory timeframe, which raised the following issues:

- Proposed development would be wholly uncharacteristic of the established character and density of the area.
- The proposed development would seriously injure the amenities of the area due to overdevelopment of the site by reason of density, design, layout, loss of tree cover and boundary planting and lack of regard to the established character of the development in the area.
- Proposed layout is regimented and warrants a higher quality and more imaginative design approach.
- Proposed development would fail to adhere to the established building line of Mabestown House which the previous proposals on the site were cognisant of.
- Proposed development would have an excessive density and exceeds density requirements amounting to over development of the site.
- Impact to residential amenities within the vicinity including over-looking, overshadowing and impact arising from car light glare.

- Lack of adequate private open space for the proposed units.
- Lack of school places and social infrastructure.
- Concerns regarding ownership of foul/water infrastructure within the site, inadequate legal right of access and potential breach of a legal agreement.
- Foul water capacity issues.
- Flooding and the need for a Stage 2 Flood Risk Assessment.
- Traffic generation, safety, road layout.
- Lack of accessibility to Malahide Train Station, proposed development would be a car-based development.
- Development is premature pending the upgrade of pedestrian and bicycle links to the town centre.
- Inadequate sightlines and constitutes a traffic hazard.
- Lack of footpath adjacent to the R107.
- Bicycle parking is referenced within the design statement but not visible on the plans.
- Car parking layout dominates the public realm.
- Concerns regarding the percolation area.
- Public open space provision is not acceptable and would be poor quality.
- Loss of tree line which is characteristic of the roadway leading to Malahide.
- Notes the presence of the Streamstown River and the impacts the proposed development could have on same.
- Lack of consideration for bin storage and access for bin trucks.
- Wayleave for overhead lines not sufficient.
- Request that permission be refused for the proposed development.

4.0 Planning History

4.1. Subject site:

F18A/0724: Permission granted by Fingal County Council on 11th February 2019 for alterations to previously approved planning permission Reg. Ref. F17A/0573 comprising alterations to site 3 (Type A2) and site 4 (Type D3) formerly sites 12 and 13, for the construction of a rear single storey extension circa 7.6sq.m., including alterations to ground floor windows on the east elevation of site 3 (Type A2).

F17A/0573: Permission granted by Fingal County Council on 28th February 2018 for the construction of 13 number detached two storey plus attic accommodation dwelling houses and associated site works including landscaping, boundary treatment and new vehicular access off the Dublin Road, ESB sub station

PL06F.229757/F08A/0415: Permission refused by Fingal County Council on 28th May 2008 and on appeal to An Bord Pleanála on 27th January 2009 for a development to construct 21 no. residential units and all ancillary development works.

The reason for refusal stated:

“Having regard to the residential zoning of the current development plan for the area, which includes a specific objective to limit the density of housing, it is considered that the proposed development would contravene this objective and would represent overdevelopment of the site by reason of its density, layout, design, loss of tree cover and lack of regard to the established character of development in the vicinity. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area”.

F07A/0325: Permission granted by Fingal County Council on 26th February 2008 for the construction of sixteen detached residential units, comprising varying 2.5 storey detached houses with associated balconies, a new entrance to the south of the site off the Dublin Road, Malahide, to include new boundary wall and entrance piers.

Widening of Dublin Road along the front of the site to allow for cycleway and footpath, including public lighting, new estate roads and footpaths with public lighting, linked to the Dublin Road, Malahide. Storm water attenuation works, foul and storm water drainage, including a link to existing public sewer, landscaping to include the provision of amenity open space, and all other associated site development works.

This permission was extended under F07A/0325/E1.

4.2. Mablestown House:

F18A/0314: Permission granted by Fingal County Council on 17th January 2019 for the construction of 3 no. two storey houses in the garden of Mablestown House comprising detached and semi-detached dwellings, with sites 2 and 4 incorporating a first floor terrace enclosed with 1.800mm high privacy screen. The development also consisted of an additional vehicular entrance and alterations to the existing driveway and extent of garden of Mablestown House, and all associated services and site works.

5.0 Policy Context

5.1. Fingal Development Plan 2023 – 2029

The subject site is zoned 'RS' Residential, with a stated objective *"to provide for residential development and protect and improve residential amenity"*.

With a vision to "Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity".

The site has Landscape Character - Low lying agriculture.

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

GDA Cycle Network Plan - Primary Radial - along Malahide Road.

5.1.1. The following are of particular relevance:

- 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”.

- Policy CSP35 – Malahide “Promote the planned and sustainable consolidation of the existing urban form and protect the unique identity of Malahide. The need to upgrade and support the development of the town centre will be balanced with the need to conserve its appearance as an attractive, historic village settlement and to retain the existing amenities of the area, being cognisant of its proximity to the ecologically sensitive coastline including European Sites.
- Local Objective 46 – “Preserve the tree lined approach to Malahide.
- Policy CSP - Malahide, Balbriggan, Lusk, Portmarnock, Rush and Skerries Consolidate development and protect the unique identities of the settlements of Malahide, Portmarnock, Balbriggan, Lusk, Rush and Skerries.
- Objective CSO54 - Tree Lined Approach “Retain existing tree-lined approaches to all towns and villages in order to preserve their special character”.
- Objective CSO62 - Maintenance of Distinct Physical Separation - Lusk, Rush and Malahide “Ensure that existing and future development within the settlements of Lusk, Rush and Malahide is consolidated within well-defined town boundaries to maintain their distinct physical separation.
- Objective CMO41 - Transportation Schemes “Seek to implement the transportation schemes indicated in Table 6.3.
- Table 6.3 - R107 Malahide Road Upgrade.
- Objective IUO14 - Buffer Zones for Riparian Corridors “Implement policies relating to the buffer zones for riparian corridors and SuDS, having regard to Fingal's SuDS Guidance document Green/ Blue Infrastructure for Development, as amended.

- Objective IUO26- Riparian Corridors “Establish riparian corridors free from new development along all significant watercourses and streams in the County:
- Ensure a minimum 10m wide riparian buffer strip measured from the top of the bank either side of all watercourses. This minimum 10m wide riparian buffer strip applies to lands within development boundaries- i.e. within designated settlement boundaries (as per Fingal County Council's Settlement Hierarchy set out in Chapter 2, Planning for Growth, Table 2.20).
- A minimum 48m wide riparian buffer strip is required in all other areas outside of development boundaries.
- Where lands encompass urban and rural areas, a transitional approach from the urban riparian requirements to the rural riparian requirements may be appropriate and will be assessed on a case-by-case basis.
- Notwithstanding the above, cognisance must be taken of Flood Zone A and B, as outlined in the SFRA.
- Chapter 14 Development Management Standards (Section 14.20.5 Riparian Corridors) and the SFRA.
- Objective IUO27 - De-culverting of Watercourses “Promote de-culverting to restore watercourses to their natural environmental state”.
- Section 14.6.4 Residential Standards.
- Objective DMSO63 - Location of Open Space “Ensure open spaces are not located to the side or the rear of housing units.
- Objective DMSO64 - Design of Open Space “Ensure open space provision is suitably proportioned and inappropriate narrow tracts are not provided”.
- Objective DMSO125 - Management of Trees and Hedgerows “Protect, preserve and ensure the effective management of trees and groups of trees and hedgerows”.
- Objective DMSO26 - Separation Distance between Side Walls of Units “Ensure a separation distance of at least 2.3 metres is provided between the side walls of detached, semi-detached and end of terrace units. (Note: This

separation distance may be reduced on a case-by-case basis in relation to infill and brownfield development which provides for the regeneration of under-utilised lands and subject to the overall quality of the design and the schemes contribution to the streetscape. A statement demonstrating design mitigation and maintenance arrangements shall be submitted in such cases)".

- Objective DMSO27 - Minimum Private Open Space Provision "Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows: "3 bedroom houses or less to have a minimum of 60 sq. m. of private open space located behind the front building line of the house. "Houses with 4 or more bedrooms to have a minimum of 75 sq. m. of private open space located behind the front building line of the house. Narrow strips of open space to the side of houses shall not be included in the private open space calculations".
- Objective DMSO160 - Riparian Corridors "Require development proposals that are within riparian corridors to demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology".
- Section 14.20.5 Riparian Corridors "The riparian corridors of the County include rivers, streams and other watercourses and are important green infrastructure and biodiversity links. Development within or affecting riparian corridors will be required to:
 - Ensure that hydromorphological assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan.
 - Demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology.
 - Promote and protect native riparian vegetation along all watercourses and ensure that riparian corridors are maintained/reinstated along all watercourses within any development site.

- Uncover existing culverts where appropriate and in accordance with relevant river catchment proposals, restore the watercourse to acceptable ecological standards for biodiversity wherever possible, improving habitat connection and strengthening the County's green infrastructure network".

5.2. National Planning Framework

- 5.2.1. The NPF provides an overarching policy and planning framework for the social, economic and culture development of the country. An important element of the growth strategy, intrinsic to the NPF, is securing compact and sustainable growth as it offers the best prospects for unlocking regional potential. The preferred approach for compact development is one which focuses on reusing previously developed 'brownfield' lands and development of infill sites and buildings. To this end the NPF requires at least 30% delivery of all new homes in settlements (outside of the 5 cities) to be within the existing built up footprint (NPO 3(c)).

5.3. Regional Spatial and Economic Strategy (RSES) - Eastern and Midland Regional Assembly (EMRA)

- 5.3.1. The RSES sets out the strategic framework for the economic and spatial development of the Eastern and Midland Region up to 2031. The primary objective of the RSES is to support more sustainable settlement patterns that focus on compact growth, makes the most efficient use of land and infrastructure, and takes an integrated approach to development that provides employment opportunities and improvements to services alongside population and residential growth.

5.4. Natural Heritage Designations

- 5.4.1. The subject site is not located within a designated European Site.
- 5.4.2. However, the nearest designated sites are:

Special Areas of Conservation	Distance
Malahide Estuary SAC	1.6 km
Baldoyle Bay SAC	3 km

North Dublin Bay SAC	6.2 km
Rogerstown Estuary SAC	6.4 km
Rockabill to Dalkey Island SAC	6.7 km
Ireland's Eye SAC	7.6 km
Howth Head SAC	8.7 km
South Dublin Bay SAC	10.7 km
Lambay Island SAC	10.8 km
Special Protection Areas	Distance
Malahide Estuary SPA	1.6 km
Baldoyle Bay SPA	3 km
North-West Irish Sea SPA	3.4 km
North Bull Island SPA	6.2 km
Rogerstown Estuary SPA	6.6 km
Ireland's Eye SPA	7.3 km
Howth Head Coast SPA	9.4 km
South Dublin Bay and River Tolka Estuary SPA	10.7 km
Lambay Island SPA	10.8 km

5.5. EIA Screening

- 5.5.1. I refer the Board to the completed Form 1 and Form 2 in Appendix 1. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been received; the grounds of appeal are summarised below.

- The decision to refuse permission should be overturned as it is incorrect, unreasonable and is disappointing following the pre-planning meeting held which stated that the design scheme was acceptable in principle.
- None of the other departments, nor Uisce Eireann recommended refusal.
- In response to reason for refusal 1 the appellant states:
 - The planning report prepared provides a comprehensive assessment and justification of the proposed design and layout having regard to the 12 Design Criteria outlined in the Urban Design Manual.
 - The proposal also complies with Policy SPQHP35 of the Development Plan and the Urban Design Manual.
 - The proposed development will provide a high quality living environment and sense of place for all residents within the range of residential design proposed.
 - The planners report refers to 'site constraints', however these are not elaborated upon.
 - The appellant states that there are comparably few constraints on this site. the presence of the ESB line through the site is noted and the design responds to this with the main access road running under and the residents set back the required distance.
 - There are trees present on the site, with a large number of these proposed to be retained along the boundary with Malahide Road to ensure that the development does not detract from the sylvan character of the area along the Malahide Road and to accord with Development Plan objective 46, which seeks to "preserve the tree lined approach to Malahide".

- The misunderstanding in the planners report in relation to the removal of trees influenced the negative conclusions reached in relation to the design and layout.
- The proposed design respects the amenity and privacy of existing residences.
- Additional information was requested from Parks and Landscape Services confirming the % of open space outlined, the extent of play and cross sections. Not a refusal.
- Previous permissions granted on this site have located the open space to the west of the site, adjacent to the Malahide Road.
- Placing the open space to the west allows for the retention of the trees along the site boundary, with a metal railing alongside the trees.
- The main public space provides a dedicated play area of 280 sq. m. in accordance Objective DMSO68.
- In accordance with Objectives DMSO63 and DMSO64 the open space is suitably proportioned and will be fronted by a large number of houses and the trees provide a significant screen buffer to the road.
- The public open space provision within the development site extends to c.2,421 sq. m. which equates to 16% of the development site. This exceeds the 15% minimum required and accords with the public open space standards of the Development as per Objective SPQHO34, Table 4.3, Table 14.6, and Table 14.12.
- In respect to the future road upgrade/cycleway the appellant refers to the technical note prepared by OCSC Consulting Engineers which confirms that despite the road/cycleway objectives along the Malahide Road there are no designs or proposals forthcoming for same.
- The objective to upgrade the Malahide Road and provide the cycleway will be a significant undertaking.
- The Transportation Department did not recommend refusal on this issue but requested the applicant to "demonstrate that the proposed development is offset sufficiently so as to not jeopardise the delivery of these objectives in the future, and that the proposed 'Public Open Space' for the development would

not be excessively reduced by future potential widening of the public road."

This clearly is something that warranted a Request for Additional Information rather than a straight refusal.

- In acknowledgement of the objective and noting the FCC Transportation Department concerns, the OCSC technical report submitted assumes a "worst case scenario" whereby a 6m reservation may be required in the future which would include a 1m verge, 3m two-way cycle route and 2m footpath, which has been illustrated on the Landscape Masterplan submitted as part of the appeal.
- This in turn would reduce the residential development to c.1.46ha, and the open space would also reduce to c.0.195ha, which would equate to c.13% of the updated site area.
- In this scenario, despite the imposition of the reservation, the quantum open space provision would remain in compliance with the Development Plan standards.
- The planning authority also has the discretion to accept financial contribution in lieu of open space.
- The appellant considers that the quantity and quality of public open space is acceptable and in accordance with the standards and objectives of the County Development Plan and national policy.
- In respect to the communal parking the specific design employed was a multi-disciplinary approach between the architect, landscape architect and roads engineers.
- The appeal response justifies the proposed communal parking and shared surface proposal and demonstrate compliance with DMURS in this regard.
- Contrary to DMURS, the FCC Transportation Department Report does not support the on-street parking and claims that all car parking should be provided in curtilage for each dwelling.
- The Planner's Report does not dispute this but instead claims that the internal layout is "dominated with communal surface car parking".

- The issue of "taking in charge" has clearly influenced the resistance to on-street parking with the Transportation Report raising concerns about future designation and ownership, and potential complications with EV charging on street. In response to these concerns, our appellant confirms that this development is intended to be a fully managed estate and the internal streets and open spaces would be maintained by a properly constituted management company and which would include for the management and allocation of car parking spaces (and EV parking provision).
- It is contended that the communal parking areas have been carefully located and in combination with the high quality surface materials and landscaping proposed will not visually dominate the street scene.
- The overall visual impact of the cars will certainly be less extensive compared to having 2 car parking spaces located in the front curtilage of each house (as per the traditional suburban estate layout).
- An additional drawing has been submitted demonstrating a proposed allocation of parking per dwelling, which demonstrates that in most cases the spaces are located close to and/or within sight of the dwellings served.
- In relation to pedestrian connectivity and permeability through the development, it is acknowledged that there were some minor inconsistencies between the architectural Site Plan, Roads Plan and Landscape Masterplan submitted with the planning application. As part of this appeal the site plans have been updated and are now fully co-ordinated.
- The updated layout provides a clear hierarchy of roads with the main access road to the north comprising a traditional cross section with 5.0m width (as per DMURS Section 4.4.1) and segregated 2m wide footpaths (as per DMURS Section 4.3.1).
- All other roads are proposed as shared spaces, operating as home zones given the overall limited number of units within the development. This approach is wholly in line with DMURs Section 4.3.4.
- These home zones are 4.8m in width (as per DMURS Section 4.4.1) with the exception of a short, approximately 20m length in the southeast section of the

site which is widened to 5.5m to facilitate manoeuvring to/from parking spaces.

- Where 4.8m wide carriageways are provided adjacent parking and with units fronting directly onto same, additional width has been provided to act as a buffer to the units. The distinction between these areas and the shared carriageway has been reinforced in the updated landscape plan which highlights a proposed flush kerb line between same and use of contrasting surface materials.
- The proposed design of parking throughout the development is in line with the guidance of DMURS in terms of communal on-street parking and the provision of well-designed shared-surface Home zones.
- Overall, it is considered that the Reason No.1 is unreasonable and contrary to the provisions of DMURS national policy and the Development Plan regarding the quantum and quality of public open space provided.
- In response to reason for refusal 2 the appellant states:
 - The issue of stormwater infiltration and misconnection in the catchment of the Connolly Lane pumping station has been an on-going matter and one which Uisce Eireann and Fingal County Council have sought to resolve often in collaboration with developers of new residential schemes.
 - In response to reason for refusal 3 the appellant states:
 - This reason for refusal is unreasonable and fails to acknowledge that a pedestrian crossing from the proposed development across the Malahide Road to the existing footpath was included in the planning application i.e. Road General Arrangement Plan (Dwg No. B1036-OCSC-XX-XX-DR-C-0110-S4-P03) prepared by OCSC Consulting Engineers and Landscape Masterplan (Dwg. 01) prepared by Ronan Mac Diarmada & Associates Ltd. Landscape Architects.
 - As part of the appeal the proposed pedestrian entrance has been amended and moved south to the nearby bus stop on the Malahide Road.

- It is acknowledged that further detail regarding the specific design may be required with Fingal Transportation Department post planning, and as such the applicant is happy to comply with a suitably worded condition.

6.2. Planning Authority Response

- 6.2.1. Report received 30th November 2023, stating that *“the application was assessed against the policies and objectives of the Fingal Development Plan 2023-2029 and existing government policy and guidelines. The development was assessed having regard to the development plan zoning objective as well as the impact on adjoining neighbours and the character of the area. Concerns set out in third party objections were acknowledged and considered”*.
- 6.2.2. The Planning Authority requests that An Bord Pleanála upholds the decision of the Planning Authority to refuse permission.
- 6.2.3. In the event that this appeal is successful, provision should be made in the determination for applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

6.3. Observations

- 6.3.1. Three observations were received from Mr. Derek Snug, Dr. Stan Natin & Anne Hennessy & Others, and Laura and John Mahony, the issues raised with the observations are summarised as follows:
 - Roads and Traffic.
 - Surface Water
 - Water Supply
 - School Places
 - DART Service
 - Public Open Space
 - Impacts on Residential Amenity

- The first party has failed to adequately address the decision of the planning authority.
- Excessive density relative to the layout, form and lack of connectivity.
- Failure of the design and layout to uphold relevant Development Plan Policies and the planning history of the site.
- Overdevelopment of the site.
- Negatively impact on the residential and visual amenities of the adjoining dwellings.
- The proposal fails to adequately address the balance on seeking to increase the density, access to public transport, general pedestrian and cycling infrastructure and recognising the established building line along Malahide Road.
- The proposal reflects a massing, design and layout that has not addressed or respected the site or its context.
- The proposed layout, form and density would be contrary to the proper planning and sustainable development of the area.
- The proposals involve utilising the services which run across the observers' property i.e. the driveway and does not have the legal right of access to required services.
- A limited grant of easements restricted to 14 no. houses only has been granted by the observer.
- The proposal is far in excess of the number agreed by the observer.
- There is potential breach of legal agreement.
- The design and number of houses proposed is out of character of the surrounding area.
- The previous planning permission for 13 no. houses was a more appropriate proposal for the site in the context of the surrounding area.
- Sightlines are inadequate from the proposed entrance.

- The proposal will further increase the pressure on traffic, will result in delays and congestion on the R107.
- If the development is granted this will only intensify further the traffic issues in the area.
- The Board are asked to seek clarification as to how the public open space is calculated.
- The public open space as proposed, given its location adjacent to the Malahide Road will make this space poor in quality for public use.
- In relation to the public realm, no footpath has been proposed adjacent to the R107.
- An Bord Pleanála is requested to uphold the decision of the Council and refuse permission in this instance.

6.3.2. One observation was received from Dublin Airport Authority (DAA), the issues of the observation are summarised as follows:

- The proximity of the proposed to the airport means the operation of cranes during construction may cause concern in relation to air safety, and at a minimum, requires a further detailed assessment in relation to flight procedures at Dublin Airport.
- DAA recommends that a condition be included requiring the developer to agree proposals for crane operations with the DAA and the Irish Aviation Authority, within a specific timeframe prior to construction.

6.4. **Further Responses**

None received.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the first party appellant's submission (the subject matter of this appeal), site inspection and having regard to the relevant policies, objectives, and guidance, I am satisfied that the main issues to be considered are those raised in the grounds of

appeal, and the observations received, I am satisfied that no other substantive issues arise. The main issues in determining this appeal relate to the three reasons for refusal, the proposed layout, open space, and public realm, foul network and pedestrian infrastructure and traffic safety, in addition to issues raised as part of the observations received as follows:

- I. Principle of Development and Density
- II. Reason for Refusal 1 - Proposed layout, open space, and public realm
- III. Reason for Refusal 2 - Foul Network
- IV. Reason for Refusal 3 - Pedestrian Infrastructure and Traffic Safety
- V. Impact on Residential Amenity
- VI. Appropriate Assessment, and
- VII. Other Matters.

At the outset I note that the planner's assessment and the first reason for refusal refers to the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009), however, since the planning authority decision these have been replaced by the Sustainable and Compact Settlements | Guidelines for Planning Authorities, (2024). As such, my assessment will have regard to the most recent Sustainable and Compact Settlements | Guidelines for Planning Authorities, (2024).

7.2. Principle of Development and Density

Principle of Development

- 7.2.1. The applicant seeks permission for 52 no. residential dwellings on the overall landholding. The site is in a residential area within Malahide on lands zoned 'RS' – with an objective to provide for residential development, whilst protecting and improving residential amenity. Accordingly, I note that residential development is permitted in principle under the zoning objective, and therefore the principle of development is acceptable on this site.

Density

- 7.2.2. Concerns have been raised in the observations on the appeal in relation to the proposed density, which is considered to be excessive and results in

overdevelopment of the site. The observers also consider that the previous permission for 13 no. units was more appropriate for this site in the context of the area.

- 7.2.3. The appeal site is located along the Malahide Road on the periphery of Malahide, within the Malahide Settlement, and is defined as a metropolitan town/self sustaining town in the Fingal Development Plan. I note that the Sustainable and Compact Settlements | Guidelines for Planning Authorities, (2024), states in relation to areas and density ranges that *“it is a policy and objective of these Guidelines that residential densities in the range 35 dph to 50 dph (net) shall generally be applied at suburban and edge locations of Metropolitan Towns, and that densities of up to 100 dph (net) shall be open for consideration at ‘accessible’ suburban / urban extension locations”*.
- 7.2.4. Following site inspection, I noted that the appeal site is not within a short walk to the Malahide DART station but is served by public bus network along the R107. There are no local services within walking distance of the site. Therefore, I concur with the planner’s assertion that the appeal site be considered as a ‘peripheral location’. I reference Section 3.4.1 of the Sustainable and Compact Settlements | Guidelines for Planning Authorities, (2024), which states that *“planning authorities should encourage densities at or above the mid-density range at the most central and accessible locations in each area, densities closer to the mid-range at intermediate locations and densities below the mid-density range at peripheral locations”*.
- 7.2.5. The proposed development would result in a density of c. 36 dwelling units per hectare and noting the residential zoning objective and the location of the appeal site, I consider that the density as proposed would be acceptable for this peripherally located site. This proposed development also supports a higher density in this location to ensure the efficient use of land and promotes compact consolidated development, which accords with the NPF, the RSES and Development Plan objectives.

Conclusion

- 7.2.6. Accordingly, I am satisfied that the principle and density of residential development proposed at this site would be acceptable subject to the layout of the scheme, open

space, drainage, transport, and other relevant planning considerations which will be assessed in the following assessment.

7.3. Reason for Refusal 1 - proposed open space, layout and public realm and future road upgrade

- 7.3.1. Reason for refusal no. 1 states that the proposed development would be contrary to guidance in the Sustainable Residential Development in Urban Areas, which is a companion document to the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- 7.3.2. The reason for refusal was also considered that the development would be contrary to Policy SPQHP35, Objective DMSO63 and Objective DMS64 of the Development Plan, due to the layout which results in a poor quality of public open space due to the location of the adjoining Malahide Road, and that the public realm was dominated by large amounts of communal surface car parking and the unclear shared surface layout for internal pedestrian connectivity and the layout fails to demonstrate how future road upgrades and cycle infrastructure would be incorporated into the scheme in line with Development Plan objectives.
- 7.3.3. Several observations received on the appeal expressed concerns in relation to the layout, lack of connectivity, building line, and the quality of the open space as proposed given its location and queried how the quantum of open space as calculated.

Open Space Provision

- 7.3.4. In terms of private amenity space to serve the proposed dwellings, the site plan indicates that each dwelling will be served by private amenity in accordance with the County Development Plan requirements.
- 7.3.5. Policy SPQHP35 of the Development Plan states “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”.

- 7.3.6. In relation to the proposed open space, and noting the reason for refusal, I reference Objective DMSO63 – Location of Open Space which states “*Ensure open spaces are not located to the side or the rear of housing units*”, and Objective DMSO64 – Design of Open Space which states “*Ensure open space provision is suitably proportioned and inappropriate narrow tracts are not provided*”.
- 7.3.7. I also reference the Sustainable and Compact Settlements | Guidelines for Planning Authorities, (2024), Section 5.3.3 in relation to Public Open Space which states that “*Public open spaces in residential schemes refers to the open spaces that form part of the public realm within a residential development. This is distinct from a public park. Open spaces provide for active and passive recreation, nature conservation, pedestrian and cycle connection and provide an important visual break between streets and buildings. All residential developments are required to make provision for a reasonable quantum of public open space. There is a need to focus on the overall quality, amenity value and biodiversity value of public open spaces. The spaces should integrate and protect natural features of significance and green and blue infrastructure corridors within the site and should support the conservation, restoration and enhancement of biodiversity. The public open spaces should also form an integral part of the design and layout of a development and provide a connected hierarchy of spaces, with suitable landscape features, including seating and provision for children’s play*”.
- 7.3.8. As noted in the above guidance, public open space provided as part of new developments should form an integral part of the overall design and layout approach and should be suitably proportioned and provide high quality amenity value for residents.
- 7.3.9. As part of the proposed development, the open space is located to the southwest corner of the site adjoining the Malahide Road. The planner in their assessment

considers that the proposed location of the open space would compromise the space as a viable amenity and appears more as a residual area.

- 7.3.10. The appellant states that the development complies with Policy SPHQP35 and provides a high quality living environment, and that the placing of the open space to the west allows for the retention of the trees along the site boundary, in line with Objective 46 which seeks to preserve the tree lined approach to Malahide.
- 7.3.11. Whilst I acknowledge the retention of the trees along the roadside boundary, in light of the forgoing, I do not consider that the proposed layout, design, and location of the open space area, particularly consolidated to the western boundary of the site, forms an integral part of the overall scheme or presents a considered design approach for this site in terms of the integration and functionality of the public open space provision throughout the development. In this regard, I find the proposed development to be contrary to Policy Objective DMSO63 – Location of Open Space and Objective DMSO64 Design of Open Space of the Development Plan and contrary to Sustainable and Compact Settlements | Guidelines for Planning Authorities, (2024), Section 5.3.3 in relation to Public Open Space. Therefore, I recommended that planning permission be refused in this instance.
- 7.3.12. A question has arisen in the observations in relation to the calculation of open space. The Fingal Development Plan requires that 15% of public open space shall be provided within all new developments. I note that Policy and Objective 5.1 of the Sustainable and Compact Settlements | Guidelines for Planning Authorities, (2024), states *“It is a policy and objective of these Guidelines that statutory development plans include an objective(s) relating to the provision of public open space in new residential developments (and in mixed-use developments that include a residential element). The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances. Different minimum requirements (within the 10-15% range) may be set for different areas. The minimum requirement should be justified taking into account existing public open space provision in the area and broader nature conservation and environmental considerations”*.

7.3.13. The appellant states that the new site development area is c1.51ha and the public open space provision within the development exceeds to c. 2,421 sq. m. which equates to 16% of the development site, which exceeds the 15% minimum requirement as required by the Development Plan. I also acknowledge the proposed development includes children's play facilities, which are located within the open space.

While I note that the quantum of public open space proposed meets the required standards, I concur with the concerns expressed by the planning authority in respect to the layout and position of the proposed are of public open within the scheme and the usable quality of the open space for the intended residents.

Layout and Public Realm

7.3.14. The reason for refusal states that the public realm is dominated by large areas of surface car parking in addition to unclear shared surface layout for internal pedestrian connectivity.

7.3.15. At present, there are no structures on the subject site. The proposed development includes semi-detached and terraced dwellings laid out in linear rows, along the north, eastern and southern boundaries, with a central block of dwellings arranged back-to-back, with one block fronting the proposed open space and Malahide Road. A new access road is proposed with a new entrance off the Malahide Road, with a mixture of on-street and in curtilage parking throughout the scheme.

7.3.16. I reference Section 1.3.4 High Quality Design of the Fingal Development Plan, which states that *"Good design, in terms of overall layouts and individual buildings is fundamental to placemaking and developing sustainable communities with a 'sense of place' and 'local distinctiveness"*, this is again echoed in Strategic Objective 7, *"Ensure the highest quality of public realm and urban design principles are applied to all new developments, ensuring developments contribute to a positive sense of place and local distinctiveness of an area and facilitate the universal design approach into all developments"*.

7.3.17. I also reference Appendix D of the Sustainable and Compact Settlements | Guidelines for Planning Authorities, 2024, which references key indicators of quality urban design and placemaking specifically in relation to sustainable and efficient movement to ensure that the public realm is not dominated by parked vehicles.

- 7.4. I note first party appeal response, wherein the design team states that the proposal utilised the Urban Design Manual – A Best Practice Guide as a starting point for the design. The appellant also states that the pockets of consolidated car parking predominately occur as parking courts at cul-de-sac locations, which benefit from passive surveillance, vegetated buffers, and tree planting, which also result in traffic calming measures. The appeal documents also indicate the proposed ‘home zone’ locations and shared surfaces indicating the pedestrian connectivity within the site.
- 7.5. While the home zone and shared surfaces as identified on the appeal documents are acknowledged, I have concerns in respect to the layout of the development, in particular the proposed car parking layout and the location of same. The appellants reference to the requirements of DMURS is noted, however I reference the Compact Guidelines which state that *“The form and location of car parking in residential developments has an impact on the built environment. In the case of low and medium density housing where basement or undercroft car parking may not be feasible, it is important to achieve a balance between the quantum of car parking and its design, in order to ensure that parked cars do not dominate public areas”* and *“Where off-street or in-curtilage parking is provided it should be designed to integrate into the block layout and building envelope in order to maximise efficiency, enable future adaptability to other use and to reduce the visual impact of parked cars”*.
- 7.6. Having regard to the guidance and noting the proposed layout, I concur with the concerns raised by the planner that an appropriate balance has not been achieved in relation to the proposed parking spaces and the public realm. I consider that the proposed car parking spaces, appear to dominate the public spaces, and will in my view detract from the overall layout and design of the public realm and as such detract from the residential and visual amenity of the proposed development. I consider that the overall access and parking arrangement should be revised to improve the public realm and visual impact of the proposed scheme. Therefore, I recommend a refusal in this regard.
- 7.6.1. In relation to the proposed scheme layout, reference is made to site constraints in both the planners report and appeal response. The planner’s report does not elaborate on the extent of the site constraints and the appellant states that the only constraints are the overhead lines, and the proposed dwellings are set back from these. Following my site inspection, I consider that there are few site constraints to

restrict the developer achieving a high-quality scheme on this site, whilst acknowledging the retention of the trees along Malahide Road and the presence of the overhead power lines, I consider that this site could accommodate a high-quality residential development, of appropriate density while providing adequate usable open space and an attractive public realm.

- 7.6.2. As part of the assessment the planner also considers that parts of the scheme lack visual interest, particularly the block of dwellings addressing the Malahide Road. Concerns have also been expressed in respect to the front façade of House Type E, which lacks interest due to the height of these dwellings.
- 7.6.3. I do not share the same concerns of the planner in respect to the visual interest of the proposed scheme. In relation to the elevation to the Malahide Road, I note that this comprises a block of 5 units and a block of 6 units, with House Type A (unit 44-A) at a lower ridge line to that of the adjoining block. I also note that the proposed dwelling units are stepped with porches and bay windows. In relation to House Type E, I consider that the design of these dwellings, to be acceptable, I consider that the proposed front elevation of these dwellings, which includes a garage door and various fenestration with a gable front would be acceptable. Moreover, the house types comprise two no. semi-detached dwellings, with visual breaks between each pair of dwellings. As such, I am satisfied that the design of the dwellings would be acceptable.
- 7.6.4. In relation to the concerns regarding House Type E on site No. 33, which immediately addresses the area of public open space, reference has been made to the blank gable wall to this unit. I note that the submitted floor plans indicate that the gable elevation of House Type E, appears to have fenestration at ground, first and second floor level, which would address the open space, this would be considered acceptable.

Future Road Upgrades

- 7.6.5. The reason for refusal states that the proposal fails to demonstrate how specific Development Plan objectives, in respect of future road upgrades and how the provision of cycling infrastructure would be incorporated into the scheme.
- 7.6.6. Malahide Road is designated as a future 'primary radial' route in the NTA'S Greater Dublin Area Cycle Network Plan. This is referenced under Section 6.5.10.2 of the

Development Plan, specifically Table 6.3 Transport Schemes and is indicated on Map Sheet No. 9. The Transportation Planning Section requested further information in relation to *“how the County Development Plan objectives to provide upgraded cycling and pedestrian infrastructure along the Malahide Road is being incorporated and delivered by the scheme. At the very least, the applicant should thoroughly demonstrate that the proposed development is offset sufficiently so as to not jeopardise the future delivery of these objectives in the future, and that the proposed ‘Public Open Space’ for the development would not be excessively reduced by future potential widening of the public road”*.

- 7.6.7. Whilst there are fundamental concerns with respect to the proposed layout of the residential development, as noted in the forgoing assessment, I acknowledge that the revised landscaping plan, submitted as part of the appeal, has indicated the provision of a setback of some 6 metres to allow for the future transport proposal for the R107 Malahide Road Upgrade. Therefore, I do not consider that permission be refused for the development for this reason, as I am satisfied that the applicant has demonstrated that the future upgrade could be accommodated on this site.
- 7.6.8. According to the appellant this reservation requirement would result in a reduction in the open space proposed, under the currently layout, given the location of the proposed open space adjacent to the Malahide Road, to approximately 0.195ha, equating to 13% of the updated site area. While this would be below the required 15%, given the National and Development Plan objective to upgrade the R107 Malahide Road, the principle of a reduction in the open would in my opinion be acceptable, however, this would be subject to the quality of the open space provided, which I do not consider to be acceptable under the current proposal.

Conclusion:

- 7.6.9. As such, I conclude that the layout of the proposed development, in particular the location of the proposed open space and the layout of the proposed car parking does not provide for a high quality scheme for the intended occupiers, nor does it provide for an attractive public realm.

For this reason, the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and a refusal is recommended.

7.7. Foul Network

- 7.7.1. Reason for refusal no. 2 considered the proposed development to be premature given that the applicant has failed to adequately demonstrate that the nature and scope of the works necessitated to achieve the required capacity within the foul network. Several observers have also expressed concerns in relation to the foul and surface water proposals.
- 7.7.2. The planners report noted that *“the applicant has engaged with the Drainage Inspectorate of Fingal County Council but has yet to agree and finalise definite plans in this regard. The nature and scope of works necessitated to achieve the required capacity is undetermined and may not be feasible. The applicant should be requested to progress the separation / infiltration study and agree a roadmap for implementation. It is submitted that in the event these works could not be achieved within the time frames available, the development could be considered premature, and a refusal of permission would be warranted”*.
- 7.7.3. The report received from the Water Services Planning Section of the local authority on the proposal notes that *“the applicant has engaged with Irish Water through the Pre-Connection Enquiry process and has received a Confirmation of Feasibility (CDS23001760 dated 16th March 2023). This states that a connection to the Irish Water foul network is possible, subject to upgrades being carried out by the applicant”*, and notes that *“the nature and scope of works necessitated to achieve the required capacity is as yet undetermined and may not be feasible or may have implications in terms of planning. As such, the applicant is required to progress the separation/infiltration study and to agree a roadmap for the implementation thereof. If this cannot be achieved within the statutory planning timeframe the application should be considered as pre-mature and refused accordingly”*.
- 7.7.4. The appellant refers to the Technical Note prepared by OCOS Consulting Engineering, submitted as part of the appeal documentation (dated 3rd November 2023). The technical note refers to the engagement with the local authority and states that ongoing engagement has been undertaken with Uisce Eireann, who most recently advised that a proposal to free up potential wastewater capacity would be required in order to demonstrate that the proposed development can be accommodated as part of the Connolly Lane wastewater network. Uisce Eireann

also suggested that the applicant should revert to Fingal County Council for further discussions. Following this correspondence and following a significant period of rainfall, the applicant carried out a site visit which observed surface water surcharging from the public wastewater network (at the manhole immediately opposite the Castleway Overflow), which clearly indicates flooding of surface water from the manhole immediately upstream from the overflow. The appellant considers, based on the correspondence with Uisce Eireann that there is still significant infiltration of surface water to the wastewater network occurring, which offers the opportunity for its removal in order to accommodate the design flow rate generated from the proposed residential development.

- 7.7.5. The appellant has proposed a resolution and a suggested timeframe in order to complete the rehabilitation works necessary to facilitate the proposed development including, Stage 1 – Identify Areas of Surface Water Infiltration (approx. 2 – 3 months), Stage 2 – CCTV (approx. 1-2 weeks), Stage 3 – Pipe Rehabilitation (2 – 4 months) and Stage 4 – New Development Connection. Reference has also been made in the technical note that *“Similar pipe rehabilitation works have been agreed to in order to permit new developments to connect to the existing wastewater network in the area, with the works being carried out in a timeframe that allowed for completion of the developments within the permitted planning period”*.
- 7.7.6. Reference has been made in the appeal response to the rehabilitation and upgrade works and the local authority Water Services Report which the appellant implies may require planning permission and states that typical rehabilitation works are exempted development. The appeal relates to planning permission and as such the issue of exempted development should be assessed under a separate process, if necessary and thus not need concern the Board for the purposes of this appeal.

Conclusion

- 7.7.7. Based on the information submitted as part of the appeal, the proposed resolution strategy for surface water removal suggested by the applicant and noting the ongoing consultation between the applicant and Uisce Eireann and the local authority in this regard, I do not consider that permission should be refused for the development for this reason, as I am satisfied that the applicant has demonstrated the scope of the works necessitated to achieve the capacity required for the

proposed development, subject to agreement with the local authority and Uisce Eireann.

7.7.8. Accordingly, I am satisfied that the water supply arrangements could be agreed by way of further information request or by a suitably worded condition requiring the works to be agreed prior to the commencement of development of site. This information should be considered and presented as part of any subsequent application for residential development at this site.

7.7.9. In this regard, should the Board be mindful to grant permission, I recommend the inclusion of a condition in relation to the written agreement of surface water arrangements for the proposed development prior to the commencement of development.

7.8. Pedestrian Infrastructure and Traffic Safety

Pedestrian Infrastructure

7.8.1. Reason for refusal no. 3 states that the applicant has failed to demonstrate connection to the existing pedestrian infrastructure and as a result would endanger public safety by reason of a traffic hazard in the absence of the provision of an appropriate and safe pedestrian crossing or the means to achieve this.

7.8.2. The appellant states that a pedestrian crossing from the proposed development across the Malahide Road was included in the planning application. I note that the submitted title drawing 'road general arrangement plan', drawing no: B1036-OCSC-XX-XX-DR-C-0110-S4-P03, indicated a proposed controlled pedestrian crossing to the south of the proposed vehicular entrance to the site. The planners report stated that the development has failed to adequately and safely address the pedestrian connectivity to the west of the proposed development to the existing pedestrian infrastructure on the western side of the Malahide Road, and in the absence of this could be deemed a traffic hazard. The planner also states that the proposed pedestrian crossing should be included within the applicants red line boundary and accompanied by relevant third-party letters of consent.

7.8.3. Notwithstanding the above, as part of the appeal the applicant submitted a proposed site plan – parking application (drawing no: MBS-02-SW-00-DR-RAU-AR-1010, Revision: P3-2), which indicates an amendment to the proposed pedestrian crossing

location, which brings the crossing closer to the nearby bus stop on Malahide Road. The appellant states that the provision of the pedestrian crossing across the Malahide Road to the public footpath on the opposite side of the road is fully contained on the public road, under control of the Council and no third-party consents from other landowners are required in this instance. The observers highlight that no footpath has been proposed adjacent to the R107, however these lands are outside of the applicants' control and would be subject to agreement with the local authority.

7.8.4. Following site visit and having reviewed the planning application and appeal drawings/documents and noting the revision to the location of the proposed pedestrian access, I consider that the relocated proposed pedestrian access, which is closer to the nearby bus stop on the Malahide Road would be a more appropriate location for the proposed pedestrian access. This, however, is subject to agreement with the local authority and in the event that permission be granted, I recommend that a condition be included to agree details in this regard by way of compliance condition.

7.8.5. I also note that the proposed site plan drawing indicates a proposed potential future access footpath to the north and south of the site, however, the delivery of the proposed potential future access footpath, in particular to the south of the site appears to be subject to adjoining third party consent.

Conclusion

7.8.6. In this regard, I consider that the pedestrian access proposed by way of the appeal, would provide a pedestrian link from the proposed development across the Malahide Road, linking to the existing pedestrian footpath to the western side of the Malahide Road. As such I consider that the applicant has addressed the concerns raised as part of the reason for refusal no. 3.

7.8.7. Should the Board be mindful to grant permission, I recommend the inclusion of a condition in relation to the written agreement in respect to the proposed pedestrian arrangements for the proposed development prior to the commencement of development.

Traffic Safety

- 7.8.8. The observations received on the appeal express concerns in relation to sightlines from the proposed vehicular entrance onto the R107 and the increase on traffic because of the proposed development.
- 7.8.9. Following site inspection and having reviewed the planning application and appeal drawings/documents, I consider that the proposed vehicular entrance to be acceptable at the proposed location and that adequate sightlines are proposed which are in accordance with the requirements of DMURS.
- 7.8.10. Whilst I acknowledge that the construction of any residential development at this site, would result in an increase in traffic movements on the R107, I am satisfied, having inspected the site and surrounding area, that the R107 and the proposed internal road network serving the proposed development is adequate, in terms of width, and alignment to cater for the likely additional traffic movements generated as a result of the proposed development.

Conclusion

- 7.8.11. Therefore, I do not consider that the proposed development would result in and inadequate vehicular entrance or additional traffic congestion, or the unsafe movement of vehicles within the area and would be acceptable. As such I would not recommend a refusal of permission in this regard.

7.9. Impact on Residential Amenity

- 7.9.1. The observers express concerns in relation to the negative impact of the proposed development on residential and visual amenities of the adjoining dwellings.
- 7.9.2. The appeal site is bound by large residential dwellings on substantial plots to the north, northeast, east, southeast, and south, with proposed separation distances of 18 metres minimum (proposed dwelling 23-C2) to the southern site boundary and a maximum distance of 35.135 metres (proposed dwelling 19-C) to the eastern site boundary, with the adjoining residential dwellings. Following site inspection and having regard to the layout and orientation of the proposed dwellings, in particular proposed dwelling 23-C2 and the nearest adjoining residential dwelling to the south at a separation distance of 18 metres, I am satisfied that the proposed development would not result in overlooking of the adjoining residential dwellings surrounding the site.

- 7.9.3. Given the location of the appeal site relative to the adjoining sites, any development at this site would be visible from the adjoining sites, however, I do not consider that the development would result in a visually overbearing form of development given the proposed separation distances and the proposed form and layout.
- 7.9.4. I also reference the Daylight and Sunlight Assessment Report submitted by the applicant as part of the planning application, prepared by 3D Design Bureau, which concludes that the proposed development would not give rise to undue impacts to the surrounding properties in terms of overshadowing. Following my site inspection and noting the aforementioned separation distances, I concur with this conclusion.

Conclusion:

- 7.9.5. Therefore, I am satisfied that the proposed development would not significantly detract from or negatively impact on the residential amenity of the directly adjoining residential dwellings and as such I would not recommend a refusal of permission in this regard.

8.0 Appropriate Assessment

8.1. Context:

- 8.1.1. The requirements of Article 6(3) as related to Appropriate Assessment of a project under Part XAB and Section 177U and 177V of the Planning & Development Act, 2000 (as amended) are considered fully in this section with the areas addressed as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Brief Description of the Development
- Information received with Planning Application
- Screening for Appropriate Assessment
- Appropriate Assessment
- Recommendation

8.2. Compliance with Article 6(3) of the Habitats Directive:

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development at Mabestown, Malahide Road (R107), Malahide, Co. Dublin, comprising the construction of 52 no. units within terraced and semi-detached arrangements, car and cycle parking, new residential streets, open spaces, play area, and provision of new site entrance from the R107 including all associated site development works, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

8.3. Description of the Plan or Project:

- 8.3.1. The proposed development comprises a residential development of 2-3 storey houses consisting of 52 no. units (7 no. 2 beds, 31 no. 3 beds, 8 no. 4 beds and 6 no. 5 beds) within terraced and semi-detached arrangements. Provision of car and cycle parking, new residential streets, open spaces, play area, and provision of new site entrance from the R107. All associated site development works, landscaping, boundary treatments, and services provision.

8.4. Information received with application

- 8.4.1. The application included submission of an Appropriate Assessment Screening Report (dated 17th August 2023) and a Natura Impact Statement (dated 17th August 2023).

The AA Screening Report concluded that *“An initial screening of the proposed development, using the precautionary principle (without the use of any standard construction phase controls or mitigation measures) and the Source/Pathway/Receptor links between the proposed works and European sites with the potential to result in significant effects on the conservation objectives and Qualifying Interests of the European sites was carried out in Table 2. Based on best scientific knowledge and objective information and assessment, the possibility of significant effects caused by the proposed project was excluded for the following European sites within 15km in addition to sites beyond 15km with a direct/indirect pathway:*

Special Areas of Conservation	
IE000205	Malahide Estuary SAC
IE0000199	Baldoyle Bay SAC
IE000206	North Dublin Bay SAC
IE000208	Rogerstown Estuary SAC
IE003000	Rockabill to Dalkey Island SAC
IE002193	Ireland's Eye SAC
IE000202	Howth Head SAC
IE000210	South Dublin Bay SAC
IE000204	Lambay Island SAC

Special Protection Areas	
IE004025	Malahide Estuary SPA
IE0004016	Baldoyle Bay SPA

IE004236	North-West Irish Sea SPA
IE004006	North Bull Island SPA
IE004015	Rogerstown Estuary SPA
IE004117	Ireland's Eye SPA
IE004113	Howth Head Coast SPA
IE004024	South Dublin Bay and River Tolka Estuary SPA
IE004069	Lambay Island SPA

Having taken into consideration the proposed development, surface water strategy, the distance between the proposed development site to designated conservation sites and the indirect hydrological pathway link to conservation sites located within Baldoyle Bay, it is concluded that this development has the potential to give rise to impacts on designated sites. The construction and operation of the proposed development has the potential to impact on the conservation objectives/features of interest of two Natura 2000 sites: Baldoyle Bay SAC & Baldoyle Bay SPA (3km).

Acting on a strictly precautionary basis, an NIS is required in respect of the effects of the project on the Baldoyle Bay SAC & SPA because it cannot be excluded on the basis of best objective scientific information following screening, in the absence of control or mitigation measures that the plan or project, individually and/or in combination with other plans or projects, will have a significant effect on the named European Site/s.

An NIS or Stage 2 Appropriate Assessment is not required for the effects of the project on all other listed Natura sites above because it can be excluded on the basis of the best objective scientific information following screening that the plan or project, individually and/or in combination with other plans or projects, will have a significant effect on the European Site/s. A Natura Impact Statement is required for the proposed development”.

- 8.4.2. The submitted NIS outlines the methodology used for assessing potential impacts on the habitats and species within two Natura sites, i.e. the Baldoyle Bay SPA and the

Baldoyle Bay SAC, that have the potential to be affected by the proposed development. It predicts the potential impacts for this site and its conservation objectives, it suggests mitigation measures, assesses in-combination effects with other plans and projects and it identifies any residual effects on the European site and its conservation objectives.

- 8.4.3. The submitted NIS concluded that *“in a strict application of the precautionary principle, it has been concluded that significant effects on the Baldoyle Bay SAC & SPA are likely from the proposed works in the absence of mitigation measures, primarily as a result of the indirect hydrological connection to the site via the proposed surface water drainage strategy, with possible downstream impacts from the project during construction and operation of the proposed development. For this reason, an NIS was carried out to assess whether the proposed project, either alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the sites’ conservation objectives, will adversely affect the integrity of the European Site. All other Natura Sites were screened out at initial screening.*

Construction on this site will create localised light and noise disturbance that will not impact on Natura 2000 sites. No significant adverse effects are likely on Natura 2000 sites, alone or in combination with other plans or projects, in view of best scientific knowledge and in view of the sites’ conservation objectives, will adversely affect the integrity of the European Site.

No significant adverse effects are likely on Natura 2000 sites, their qualifying interests or conversation objectives. The proposed project will not adversely affect the integrity of European Sites”.

- 8.4.4. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential effects, and uses best scientific information and knowledge. Details of mitigation measures are provided, and they are summarised in Table 10 (pages 42 – 44) of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development. Set out below is my own independent assessment.

8.5. Screening for Appropriate Assessment

Natura 2000 Sites:

- 8.5.1. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site(s).
- 8.5.2. The site itself is not located within or border a designated European site. The nearest designated sites are:

Special Areas of Conservation	Distance
Malahide Estuary SAC	1.6 km
Baldoyle Bay SAC	3 km
North Dublin Bay SAC	6.2 km
Rogerstown Estuary SAC	6.4 km
Rockabill to Dalkey Island SAC	6.7 km
Ireland's Eye SAC	7.6 km
Howth Head SAC	8.7 km
South Dublin Bay SAC	10.7 km
Lambay Island SAC	10.8 km
Special Protection Areas	Distance
Malahide Estuary SPA	1.6 km
Baldoyle Bay SPA	3 km
North-West Irish Sea SPA	3.4 km
North Bull Island SPA	6.2 km
Rogerstown Estuary SPA	6.6 km
Ireland's Eye SPA	7.3 km

Howth Head Coast SPA	9.4 km
South Dublin Bay and River Tolka Estuary SPA	10.7 km
Lambay Island SPA	10.8 km

8.5.3. European sites within the potential zone of influence (Zol) of the proposed development must be evaluated on a case-by-case basis. The preferred method of doing this is by using the Source-Pathway-Receptor (SRP) model. The submitted Screening Report used this SRP model to establish or discount potential connectivity between the site of the proposed development and any European Sites. Figures 10 and 11, and Figures 12 -14 and Table 2 of the submitted AA Screening Report provides details of all relevant European Sites as identified in the preceding steps and assesses which are within the potential likely Zone of Impact. Having regard to the nature of the proposed development, the nature of the receiving environment and the SPR model, it is considered that this is a reasonable approach to defining the Zol.

8.5.4. I note that the applicant considered the following Natura sites i.e. Malahide Estuary SAC, North Dublin Bay SAC, Rogerstown Estuary SAC, Rockabill to Dalkey Island SAC, Ireland's Eye SAC, Howth Head SAC, South Dublin Bay SAC, Lambay Island SAC, Malahide Estuary SPA, North-West Irish Sea SPA, North Bull Island SPA, Rogerstown Estuary SPA, Ireland's Eye SPA, Howth Head Coast SPA, South Dublin Bay and River Tolka Estuary SPA, and Lambay Island SPA could be ruled out for further examination due to lack of ecological connections. The applicant also considered given the nature and scale of the works, there is no known vector, pathway or conduit for impacts between the proposed works and the remaining Natura 2000 sites. I agree with the applicant that the aforementioned sites can be removed from further consideration due to the unlikely event that these will have any significant direct or indirect impacts on the remaining Natura 2000 sites, and as such are not considered further in the screening assessment – this is assessed further in Table 8.1 (Appendix 3).

- 8.5.5. Having regard to: the information and submissions available; the nature, size and location of the proposed development; its likely direct, indirect and in-combination effects; the source-pathway-receptor model; and the sensitivities of the ecological receptors, I consider that two Natura 2000 sites are relevant to include for the purposes of initial screening for the requirement for Stage 2 Appropriate Assessment on the basis of likely significant effects, these are namely the Baldoyle Bay SAC (Site Code: 000199) and the Baldoyle Bay SPA (Site Code: 004016).
- 8.5.6. Table 8.1 within Appendix 3 of this report lists the qualifying interests of the Natura Sites within the defined Zol, their conservation objectives and identifies possible connections between the proposed development (source) and the sites (receptors).

8.5.7. **Table 8.1: Table of European Sites Within a Possible Zone of Influence of the Proposed Development**

European Site	Qualifying Interests (summary)	Conservation Objectives	Distance	Connections	Considered further in screening
Malahide Estuary SAC	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Spartina swards (Spartinion maritimae) [1320] Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with white dunes (Ammophila arenaria) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]* * Priority habitat under the Habitats Directive	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	1.6 km	There is no direct hydrological connection between the subject site and this SAC. There is an indirect hydrological pathway to this SAC via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway.	No

				No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Baldoyle Bay SAC (0000199)	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	3 km	There is no direct hydrological connection to this SAC. There is an indirect hydrological connection between the subject site and this SAC via foul and surface water drainage. Surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. In the absence of mitigation measures, this hydrological pathway has the potential to impact upon the conservation objectives of qualifying interests located within this SAC. There is the potential for silt and pollutants to enter Baldoyle Bay SAC via the watercourse network and significantly impact on this SAC. There is an indirect hydrological pathway to this SAC via the proposed foul drainage network.	Yes

				Mitigation measures are required.	
North Dublin Bay SAC	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] * Humid dune slacks [2190] Petalwort (<i>Petalophyllum ralfsii</i>) [1395]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	6.2 km	There is no direct hydrological connection between the subject site and this SAC. There is an indirect hydrological pathway to this SAC via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed	No

	*Priority habitat under the Habitats Directive			development will not impact on the conservation interests of the site. No significant effects likely	
Rogerstown Estuary SAC	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Shifting dunes along the shoreline with white dunes (<i>Ammophila arenaria</i>) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] * * Priority habitat under the Habitats Directive	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	6.4 km	There is no direct hydrological connection between the subject site and this SAC. There is an indirect hydrological pathway to this SAC via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and	No

				operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Rockabill to Dalkey Island SAC	Reefs [1170] Harbour Porpoise (<i>Phocoena phocoena</i>) [1351]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	6.7 km	There is no direct hydrological connection between the subject site and this SAC. There is an indirect hydrological pathway to this SAC via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to	No

				the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Ireland's Eye SAC	Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	7.6 km	There is no direct hydrological connection between the subject site and this SAC. There is an indirect hydrological pathway to this SAC via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway.	No

				No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Howth Head SAC	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	8.7 km	There is no direct hydrological connection between the subject site and this SAC. There is an indirect hydrological pathway to this SAC via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway.	Yes

				No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
South Dublin Bay SAC	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	10.7 km	There is no direct hydrological connection between the subject site and this SAC. There is an indirect hydrological pathway to this SAC via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a	No

				result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Lambay Island SAC	Reefs [1170] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Grey Seal (<i>Halichoerus grypus</i>) [1364] Harbour Seal (<i>Phoca vitulina</i>) [1365]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	10.8 km	There is no direct hydrological connection between the subject site and this SAC. There is an indirect hydrological pathway to this SAC via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no	No

				significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Malahide Estuary SPA	Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Pintail (<i>Anas acuta</i>) [A054] Goldeneye (<i>Bucephala clangula</i>) [A067] Red-breasted Merganser (<i>Mergus serrator</i>) [A069] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	1.6 km	There is no direct hydrological connection to this SPA. There is an indirect hydrological connection between the subject site and this SPA via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish	No

	Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]			Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Baldoye Bay SPA	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Wetland and Waterbirds [A999]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	3 km	There is no direct hydrological connection to this SPA. There is an indirect hydrological connection between the subject site and this SPA via foul and surface water drainage. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoye Bay. It is considered that, in the absence of mitigation measures, this hydrological pathway has the potential to impact upon the conservation objectives of	Yes

				qualifying interests located within this SPA. There is the potential for silt and pollutants to enter Baldoyle Bay SPA via the watercourse network and significantly impact on this SPA. Mitigation measures are required. There is an indirect hydrological pathway to this SPA via the proposed foul drainage network. Any silt or pollutants will be treated along this network and will not impact upon the conservation objectives of qualifying interests located within this SPA. Given the minimum distance to this SPA (3 km), no noise or vibration impacts on the qualifying interests of this SPA are foreseen. The proposed development consists of long unmaintained grassland surrounded by tall treelines and would not be an ex-situ foraging site for qualifying interest due to the lack of suitable habitat. Mitigation measures are required	
North-West Irish Sea SPA	Common Scoter (<i>Melanitta nigra</i>) [A065] Red-throated Diver (<i>Gavia stellata</i>) [A001] Great Northern Diver (<i>Gavia immer</i>) [A003] Fulmar (<i>Fulmarus glacialis</i>) [A009]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	3.4 km	There is no direct hydrological connection between the subject site and this SPA. The site consists of unmanaged grassland, scrub and recolonising bare ground which are habitats that would not be important ex-situ habitats that would support qualifying interests of the SPA. There is a weak indirect hydrological pathway to this SPA via the proposed foul and surface water drainage networks. Any silt or	No

Manx Shearwater (<i>Puffinus puffinus</i>) [A013] Shag (<i>Phalacrocorax aristotelis</i>) [A018] Cormorant (<i>Phalacrocorax carbo</i>) [A017] Little Gull (<i>Larus minutus</i>) [A177] Kittiwake (<i>Rissa tridactyla</i>) [A188] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Common Gull (<i>Larus canus</i>) [A182] Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183] Herring Gull (<i>Larus argentatus</i>) [A184] Great Black-backed Gull (<i>Larus marinus</i>) [A187] Little Tern (<i>Sterna albifrons</i>) [A195] Roseate Tern (<i>Sterna dougallii</i>) [A192]			pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
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	Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Puffin (<i>Fratercula arctica</i>) [A204] Razorbill (<i>Alca torda</i>) [A200] Guillemot (<i>Uria aalge</i>) [A199]				
North Bull Island SPA	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052] Pintail (<i>Anas acuta</i>) [A054] Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	6.2 km	There is no direct hydrological connection between the subject site and this SPA. The site consists of unmanaged grassland, scrub and recolonising bare ground which are habitats that would not be important ex-situ habitats that would support qualifying interests of the SPA. There is a weak indirect hydrological pathway to this SPA via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook	No

	Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]			Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Rogerstown Estuary SPA	Greylag Goose (<i>Anser anser</i>) [A043] Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Shoveler (<i>Anas clypeata</i>) [A056]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	6.6 km	There is no direct hydrological connection between the subject site and this SPA. The site consists of unmanaged grassland, scrub and recolonising bare ground which are habitats that would not be important ex-situ habitats that would support qualifying interests of the SPA. There is a weak indirect hydrological pathway to this SPA via the proposed foul and surface water drainage networks. Any silt or	No

	Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Redshank (<i>Tringa totanus</i>) [A162] Wetland and Waterbirds [A999]			pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Ireland's Eye SPA	Cormorant (<i>Phalacrocorax carbo</i>) [A017]	To maintain or restore the favourable conservation condition of the bird species listed as Special	7.3 km	There is no direct hydrological connection between the subject site and this SPA. The site consists of unmanaged grassland,	No

	Herring Gull (<i>Larus argentatus</i>) [A184] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200]	Conservation Interests for this SPA.		scrub and recolonising bare ground which are habitats that would not be important ex-situ habitats that would support qualifying interests of the SPA. There is a weak indirect hydrological pathway to this SAC via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed	
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				development will not impact on the conservation interests of the site. No significant effects likely	
Howth Head Coast SPA	Kittiwake (<i>Rissa tridactyla</i>) [A188]	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.	9.4 km	There is no direct hydrological connection between the subject site and this SPA. The site consists of unmanaged grassland, scrub and recolonising bare ground which are habitats that would not be important ex-situ habitats that would support qualifying interests of the SPA. There is a weak indirect hydrological pathway to this SPA via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SAC are likely as a	No

				result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
South Dublin Bay and River Tolka Estuary SPA	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162]	The maintenance of habitats and species within Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.	10.7 km	There is no direct hydrological connection between the subject site and this SPA. The site consists of unmanaged grassland, scrub and recolonising bare ground which are habitats that would not be important ex-situ habitats that would support qualifying interests of the SPA. There is a weak indirect hydrological pathway to this SPA via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook	No

	Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Wetland and Waterbirds [A999]			Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SAC. In the absence of mitigation, no significant impacts on the qualifying interests of this SPA are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
Lambay Island SPA	Fulmar (Fulmarus glacialis) [A009] Cormorant (Phalacrocorax carbo) [A017] Shag (Phalacrocorax aristotelis) [A018] Greylag Goose (Anser anser) [A043] Lesser Black-backed Gull (Larus fuscus) [A183] Herring Gull (Larus argentatus) [A184]	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.	10.8 km	There is no direct hydrological connection between the subject site and this SPA. The site consists of unmanaged grassland, scrub and recolonising bare ground which are habitats that would not be important ex-situ habitats that would support qualifying interests of the SPA. There is a weak indirect hydrological pathway to this SPA via the proposed foul and surface water drainage networks. Any silt or pollutants will be treated along this network. After attenuation onsite, surface water drainage will be directed to an existing 900mm concrete surface water drainage pipe that traverses	No

	Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204]			along the southern boundary of the site. This pipe outfalls to the Hazelbrook Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay. Any silt or pollutants that may enter the Hazelbrook Stream will settle, be dispersed, or diluted within the estuarine environment of Baldoyle Bay and the marine environment in the Irish Sea and will not impact on this SPA. In the absence of mitigation, no significant impacts on the qualifying interests of this SPA are likely as a result of this indirect hydrological pathway. No potential impact is foreseen. There is no direct pathway from this site to the SAC. The construction and operation of the proposed development will not impact on the conservation interests of the site. No significant effects likely	
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8.6. Screening Determination

- 8.6.1. Based on my examination of the submitted AA Screening Report and NIS and supporting information, the NPWS website, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European Sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for two European Sites: the Baldoyle Bay SAC (Site Code: 0000199) and the Baldoyle Bay SPA (Site Code: 004016). This conclusion is consistent with the documentation submitted by the applicant.

8.7. Appropriate Assessment of Implications of the Proposed Development

- 8.7.1. The proposed development will not result in any direct effects on either the SAC or SPA and no risk of habitat loss, fragmentation or any other direct impact.
- 8.7.2. However, the potential indirect sources of impact include:

Construction Impacts:

- An indirect pathway hydrological pathway to Baldoyle Bay SAC & SPA exists via surface water drainage. Surface water will be directed to an existing 900mm concrete surface water drainage pipe that traverses along the southern boundary of the site. This pipe outfalls to the Stream circa 60m to the east of the site, a watercourse that outfalls to the River Sluice and ultimately the marine environment at Baldoyle Bay.
- The construction of the proposed development would potentially impact on the existing ecology of the site and the surrounding area. These potential construction impacts would include impacts that may arise during site clearance, reprofiling, and excavations of the site, in addition to the building phases of the proposed development. This could lead to the transportation of dust, silt, and pollutants via surface water drainage "downstream" to the Baldoyle Bay SAC and SPA.
- Reprofiling of the site is proposed which will remove all existing terrestrial habitats and can lead to silt laden and contaminated runoff.

Operational Impacts:

- No SUDS drainage is currently present on site, mitigation will be required to prevent pollution and silt from entering the Stream and River Sluice. Once constructed all onsite drainage will be connected to separate foul and surface water systems.

8.7.3. The information contained in Table 8.2 (Appendix 3) is a summary of the objective scientific assessment of the implications of the proposed development on the qualifying interest features of the Baldoyle Bay SAC (Site Code: 0000199) and the Baldoyle Bay SPA (Site Code: 004016) using the best scientific knowledge in the field. All aspects of the proposed development which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

Table 8.2 - Summary of Appropriate Assessment of implications of the proposed development on the integrity of the Baldoyle Bay SAC (Site Code: 0000199) and the Baldoyle Bay SPA (Site Code: 004016) alone and in combination with other plans and projects in view of the sites' Conservation Objectives.

Natura Site	Qualifying interest feature	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on site integrity be excluded?
Baldoyle Bay SAC (Site Code: 0000199)	Mudflats and sandflats not covered by seawater at low tide [1140] [1310] Salicornia and other annuals colonising mud and sand [1330] Atlantic salt meadows (Glauco - Puccinellietalia maritima) [1410] Mediterranean salt meadows (Juncetalia maritimi)	Yes – the proposed works on site, in particular construction works, and surface water runoff and drainage could impact on the: 1. Habitat area, Community distribution of Mudflats and sandflats not covered by seawater at low tide [1140] 2. Habitat area, Habitat distribution, Physical structure: sediment supply, Physical structure: creeks and pans, Physical structure: flooding regime, Vegetation structure: zonation, Vegetation structure: vegetation height, Vegetation structure: vegetation	The mitigation measures outlined will be carried out to ensure that no silt or pollution enters the Stream from the construction or operation phases of the proposed project and create localised pollution. See Section 8.8 below for more detail.	Having reviewed the information submitted and having considered any possible residual impacts as outlined in the NIS, I am satisfied that no in-combination effects will occur as a result of the proposed development.	Yes – There is no doubt as to the effectiveness or implementation of mitigation measures proposed to prevent direct or indirect effects on integrity.

		cover, Vegetation composition: typical species and subcommunities, Vegetation structure: negative indicator species-Spartina anglica of Salicornia and other annuals colonising mud and sand [1310]. 3. Habitat area, Habitat distribution, Physical structure: sediment supply, Physical structure: creeks and pans, Physical structure: flooding regime, Vegetation structure: zonation, Vegetation structure: vegetation height, Vegetation structure: vegetation cover, Vegetation composition: typical species and subcommunities, Vegetation structure: negative indicator species -1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae) 4. Habitat area, Habitat distribution, Physical structure: functionality			
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		sediment supply, Vegetation structure: zonation, Vegetation composition: plant health of fore dune grasses, Vegetation composition: typical species and subcommunities Vegetation composition: negative indicator species of 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)			
Baldoyle Bay SPA (Site Code: 004016)	A046 Brent Goose (<i>Branta bernicla hrota</i>) A048 Shelduck (<i>Tadorna tadorna</i>) A137 Ringed Plover (<i>Charadrius hiaticula</i>) A140 Golden Plover (<i>Pluvialis apricaria</i>) A141 Grey Plover (<i>Pluvialis squatarola</i>) A157 Bar-tailed Godwit (<i>Limosa lapponica</i>) A999 Wetlands.	Yes – the proposed works on site, in particular construction works, and surface water runoff and drainage could impact on the: 1. Distribution, Number and Range of areas used by: A046 Brent Goose (<i>Branta bernicla hrota</i>), A048 Shelduck (<i>Tadorna tadorna</i>), A137 Ringed Plover (<i>Charadrius hiaticula</i>), A140 Golden Plover (<i>Pluvialis apricaria</i>), A141 Grey Plover (<i>Pluvialis squatarola</i>), A157 Bar-tailed Godwit (<i>Limosa lapponica</i>). 2. Habitat area of: Wetlands [A999]	The mitigation measures outlined in Table 10 of the NIS will be carried out to ensure that no significant levels of dust, silt, or pollution enters the Stream during the construction or operation phases of the proposed development. The level of effect on Baldoyle Bay SPA, without the use of mitigation measures, is deemed to be significant due to the scale of the proposed development, the nature of the proposed works, and the distance between the subject site and the	Having reviewed the information submitted and having considered any possible residual impacts as outlined in the NIS, I am satisfied that no in-combination effects will occur as a result of the proposed development.	Yes – There is no doubt as to the effectiveness or implementation of mitigation measures proposed to prevent direct or indirect effects on integrity.

			Stream via the 900mm concrete pipe (circa 60m). Mitigation measures are required to ensure that surface water drainage is clean and uncontaminated before reaching the SPA. See Section 8.8 below for more detail.		
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8.8. Potential In-Combination Effects

- 8.8.1. In combination effects are examined within the submitted NIS report and have been also considered under Table 8.2 above. The proposed development was considered in combination with other developments collated from the Department of Housing, Local Government and Heritage's National Planning Application Map Portal. I consider the list presented in the screening report (Table 3 – page 27 of NIS) adequate for the purpose of the assessment.
- 8.8.2. It is considered that *"there are no significant projects that have been granted planning or currently under construction, proximate to the development, that could potentially cause in combination effects on European sites. Given this, it is considered that in-combination effects with other existing and proposed developments in proximity to the application area would be unlikely, neutral, insignificant and localised"*.
- 8.8.3. It can therefore be concluded that *"no significant effects on Natura 2000 sites will occur due to the proposed development in combination with other projects. No in-combination effects are foreseen. Following the implementation of mitigation measures, no significant effects are likely from in-combination effects"*.

8.9. Mitigation Measures

- 8.9.1. The mitigation measures that are proposed in the NIS to address the potential adverse effects of the construction and operation of the proposed development are listed under Table 10 of the NIS. These can be summarised as follows:

Dust:

- Dust monitoring will be undertaken during the construction phases of the project to ensure that air quality on or in the vicinity of the site is not impacted by site activities. Records of all monitoring will be maintained on site by the contractor.
- Additionally, the contractor will ensure that dust levels are reduced by maintaining a wheel wash for vehicles exiting the site and cleaning the public road near the site as required. All stockpiles of soil and aggregate will be covered or dampened to ensure that no dust generation from the piles occurs.

Surface Water Impact:

Pollution prevention measures will be undertaken in accordance with best practice guidelines. Potential impact to surface water via the stormwater drainage system on and in the vicinity of the site will be mitigated by implementation of the following methods:

- All soils will be stockpiled within the excavations on the site where possible prior to removal from site. If not stored within excavations, the stockpiles will be compacted at the end of each day or covered to reduce siltation to stormwater during rainfall events.
- Only sediment free runoff is to leave the site.
- The site compound will include a dedicated bunded area for the storage of dangerous substances including fuels, oils, etc. The site compound will clearly display emergency contact details for Fingal County Council and the Environmental Protection Agency in the event of a pollution incident or environmental emergency.
- Refuelling of vehicles/ machinery will only be carried out within the bunded area.
- Adequate spill kits will be available in the event of a spill of oil or other hazardous substance.
- The disposal of any contaminated water including water from the wheel wash, if required, will be disposed of in accordance with Local Authority regulations and requirements.
- All site personnel will be trained in the importance of good environmental practices including reporting to the site manager when pollution, or the potential for pollution, is suspected.'

Construction Phase Mitigation:

- A project ecologist will be appointed to oversee all works.
- A preconstruction inspection for mammals will be carried out.
- Local watercourses (Stream) and drains will be protected from dust, silt and surface water throughout the works.
- Local silt traps established throughout site.

- Mitigation measures on site include dust control, stockpiling away from watercourse and drains.
- Stockpiling of loose materials will be kept to a minimum of 40m from watercourses and drains.
- Stockpiles and runoff areas following clearance will have suitable barriers to prevent runoff of fines into the drainage system and watercourses.
- Fuel, oil, and chemical storage will be sited within a bunded area. The bund will be at least 50m away from drains, ditches or the watercourse, excavations, and other locations where it may cause pollution.
- Bunds will be kept clean and spills within the bund area will be cleaned immediately to prevent groundwater contamination.
- Any water-filled excavations, including the attenuation tank during construction, that require pumping will not directly discharge to the stream. Prior to discharge of water from excavations adequate filtration will be provided to ensure no deterioration of water quality.
- On-site inspections to be carried out by project ecologist.
- Maintenance of any drainage structures (e.g. de-silting operations) will not result in the release of contaminated water to the surface water network.
- During the works silt traps will be put in place.
- No discharges will be to the watercourse during and post works.
- Silt traps established throughout site including a double silt fence between the site and the watercourse.
- Sufficient onsite cleaning of vehicles prior to leaving the site and on nearby roads, will be carried out, particularly during groundworks.
- The Site Manager will be responsible for the pollution prevention programme and will ensure that at least daily checks are carried out to ensure compliance. A record of these checks will be maintained.

- The site compound will include a dedicated bund for the storage of dangerous substances including fuels, oils etc. Refuelling of vehicles/machinery will only be carried out within the bunded area.
- A project ecologist will be appointed and be consulted in relation to all onsite drainage during construction works.
- Dewatering of excavations may be necessary. Appropriate monitoring of groundwater levels during site works will be undertaken. Standard construction phase filtering of surface water for suspended solids will be carried out. Unfiltered surface water discharges or runoff are not permitted from the site into the surface water network during the works.
- Concrete trucks, cement mixers or drums/bins are only permitted to wash out in designated wash out area greater than 50m from sensitive receptors including drains and drainage ditches.
- Spill containment equipment shall be available for use in the event of an emergency. The spill containment equipment shall be replenished if used and shall be checked on a scheduled basis.
- All site personnel will be trained in the importance of good environmental practices including reporting to the site manager when pollution, or the potential for pollution, is suspected. All persons working on-site will receive work specific induction in relation to surface water management and run off controls. Daily environmental toolbox talks / briefing sessions will be conducted to outline the relevant environmental control measures and to identify any environment risk areas/works.
- Environmental risks due to construction and operation of the proposed development do potentially exist, particularly in relation runoff from drains that could lead to the watercourse. Ecological supervision will be required during excavation and enabling works stages. Silt interception measures will need to be in place to ensure that the watercourses are not impacted during works and during the site clearance and reprofiling stages. Landscaping of the areas of the site proximate to the watercourse will take place immediately following any re-profiling, to act as a buffer to protect the watercourse.

- Materials, plant, and equipment shall be stored in the proposed site compound location.
- Plant and equipment will not be parked within 50m of the watercourse at the end of the working day.
- Hazardous liquid materials or materials with potential to generate run-off shall not be stored within 50m of the watercourse.
- All oils, fuels and other hazardous liquid materials shall be clearly labelled and stored in an upright position in an enclosed bunded area within the proposed development site compound. The capacity of the bunded area shall conform with EPA Guidelines - hold 110% of the contents or 110% of the largest container whichever is greater.
- Fuel may be stored in the designated bunded area or in fuel bowzers located in the proposed compound location. Fuel bowzers shall be double skinned and equipped with certificates of conformity or integrity tested, in good condition and have no signs of leaks or spillages.
- Smaller quantities of fuel may be carried/stored in clearly labelled metal Jeri cans. Green for diesel and red for petrol and mixes.
- The Jeri cans shall be in good condition and have secure lockable lids. The Jeri cans shall be stored in a drip tray when not in use.
- They will not be stored within 50m of the watercourse.
- Drip trays will be turned upside down if not in use to prevent the collection of rainwater.
- Waters collected in drip trays will be assessed prior to discharge. If classified as contaminated, they shall be disposed by a permitted waste contractor in accordance with current waste management legal and regulatory requirements.
- Plant and equipment to be used during works, will be in good working order, fit for purpose, regularly serviced/maintained and have no evidence of leaks or drips.

- No plant used shall cause a public nuisance due to fumes, noise, and leakage or by causing an obstruction.
- Re-fuelling of machinery, plant or equipment will be carried out in the site compound as per the appointed Construction Contractor re-fuelling controls.
- The appointed Construction Contractor EERP will be implemented in the event of a material spillage.
- All persons working will receive work specific induction in relation to material storage arrangements and actions to be taken in the event of an accidental spillage. Daily environmental toolbox talks/ briefing sessions will be conducted for all persons working to outline the relevant environmental control measures and to identify any environment risk areas/works.
- Consultation with Inland Fisheries Ireland will be carried out pre and post works is essential and to be led by the project ecologist.
- No entry of solids to the associated stream or drainage network during the connection of pipework to the public water system.

Operational Phase Mitigation:

- A project ecologist will be appointed to oversee completion of all landscape and drainage works.
- Petrochemical interception will be inspected by the project ecologist to ensure compliance with Water Pollution Acts.

Mitigation Conclusion:

Subject to the implementation of the mitigation measures, there would be no resultant adverse effects on qualifying interest species and habitats respect to its attributes and targets.

8.10. Residual Effects

- 8.10.1. The submitted NIS contains an assessment of adverse effects on the conservation objectives likely to occur from the project, post mitigation for each qualifying interest of the Baldoyle Bay SAC (Site Code: 0000199) and the Baldoyle Bay SPA (Site Code: 004016). No residual impacts have been identified post mitigation. I consider

the information and assessment presented comprehensive and I would concur with this conclusion.

8.11. Integrity Test

- 8.11.1. Following the Appropriate Assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of the Baldoyle Bay SAC (Site Code: 0000199) and the Baldoyle Bay SPA (Site Code: 004016), in view of the Conservation Objectives of that site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with other plans and projects.

8.12. Conclusion

- 8.12.1. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended.
- 8.12.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Baldoyle Bay SAC (Site Code: 0000199) and the Baldoyle Bay SPA (Site Code: 004016). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives of relevance to the proposed development. The possibility for likely significant effects was excluded for other European sites.
- 8.12.3. Following AA, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the Baldoyle Bay SAC (Site Code: 0000199) and the Baldoyle Bay SPA (Site Code: 004016), or any other European site, in view of the site's conservation objectives.
- 8.12.4. This conclusion is based on:
- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures.
 - Detailed assessment of in-combination effects.

No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Baldoyle Bay SAC (Site Code: 0000199) and the Baldoyle Bay SPA (Site Code: 004016).

9.0 Other Matters

9.1. Miscellaneous Issues

The observers reference the need for school places, and public transport services in the wider area to cater for the proposed development.

The appellants raised concern in relation to existing local services to support the community such as schools and public transport facilities. The proposed development is a greenfield serviced site on lands zoned for development within the established suburban extension to Malahide. I do not consider that the scale of the scheme proposed would of itself have such a negative impact on the existing amenities and social infrastructure that would merit refusal for this reason.

9.2. Legal and Procedural Issues

The observes state that the proposal involves utilising services which run across the observer's property and the legal right of access has not been obtained. The observer also states that the proposal is in excess of the number of units agreed by the observer and that a limited grant of easements restricted to 14 no. houses has only been granted.

In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal intent to make an application. Any further legal dispute is considered a Civil matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act. Additionally, Section 5.13 'Issues relating to title to land' within the Development Management Guidelines for Planning Authorities, states that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or

rights over land; these are ultimately matters for resolution in the Courts'.

Furthermore, it is noted that Section 34(13) of the Planning and Development Act 2000 (as amended) states that a person is not entitled solely by reason of a permission to carry out any development. Accordingly, this issue is not a matter for the Board in determining this instant appeal.

9.3. Dublin Airport Authority

I note the observation received from the Dublin Airport Authority (DAA) (Section 6.3 above). Should the Board be mindful to grant permission, I recommend the inclusion of a condition in relation to the written agreement in respect to the requirements of the DAA prior to the commencement of development.

10.0 Recommendation

I recommend that planning permission should be refused for the reason and considerations set out below.

11.0 Reasons and Considerations

11.1. It is considered that the proposed layout of the proposed development, in particular the layout, design, and location of the open space area, consolidated to the western boundary of the site, does not form an integral part of the overall scheme, or present a considered design approach for this site in terms of the integration and functionality of the public open space provision throughout the development. The proposal would therefore be contrary to Objective DMSO63 – Location of Open Space, and Objective DMSO64 Design of Open Space of the Fingal Development Plan, 2023 - 2029 and contrary to Section 5.3.3 (Public Open Space) of the Sustainable and Compact Settlements | Guidelines for Planning Authorities, (2024), would seriously injure the residential amenity of future residents of the proposed development and would, thereby, be contrary to the proper planning and sustainable development of the area.

11.2. It is considered that an appropriate balance has not been achieved in relation to the proposed parking spaces and the public realm within the proposed scheme. The proposed car parking spaces, appear to dominate the public spaces, and as a result

will visually detract from the overall layout, design, and functionality of the public realm. The proposal would therefore be contrary to Section 1.3.4 – High Quality Design and Strategic Objective 7 of the Fingal Development Plan, 2023 - 2029 and be contrary the Sustainable and Compact Settlements | Guidelines for Planning Authorities, (2024), would seriously injure the residential amenity of future residents of the proposed development and would, thereby, be contrary to the proper planning and sustainable development of the area.

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.

Emma Nevin
Planning Inspector

29th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318393-23			
Proposed Development Summary	The construction of 52 houses and all associated site works. A Natura Impact Statement (NIS) was submitted with this application			
Development Address	Lands at Mabestown, Malahide Road (R107), Malahide, Co. Dublin			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No		
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		N/A		
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		
Yes	X	Class 10 Infrastructure Projects (b) (i)	52 residential units	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318393-23	
Proposed Development Summary	The construction of 52 houses and all associated site works. A Natura Impact Statement (NIS) was submitted with this application	
Development Address	Lands at Mabestown, Malahide Road (R107), Malahide, Co. Dublin	
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.		
	Examination	Yes/No/ Uncertain
Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment. Will the development result in the production of any significant waste, emissions, or pollutants?	The construction of 52 houses and all associated site works, new road access and associated site works on residential zoned land. However, the proposal is not considered exceptional in the context of the existing urban environment. The proposal will be connected to the existing system, subject to agreement with Uisce Eireann and the Local Authority.	No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?	Site measuring 1.58 ha. The total combined proposed floor area for the residential scheme will be 6,781 sq. m. The proposal is not considered exceptional in the context of the existing urban environment.	No

Are there significant cumulative considerations having regard to other existing and / or permitted projects?	There are no other developments under construction in the immediate proximity of the site.	
Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?	The appeal site is not located within any Natura site. As such, it is not considered that the development would have a significant impact on any ecological sites. No other nearest European site is located above 1km from the site and therefore can be excluded in terms of the potential for effects on other European sites during construction and operational phases of the proposed development.	No
Conclusion		
There is no real likelihood of significant effects on the environment. EIA is not required.		

Inspector: _____

Date: 29th November 2024

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)