



An
Bord
Pleanála

Inspector's Report

ABP-319522-24

Development

Demolition of 2 houses and outbuildings and construction of 2 apartment blocks consisting of 57 no. units with all associated excavation and development site works. A NIS is submitted with the application.

Location

796 – 798 Howth Road, Dublin 5

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

3095/24

Applicant

October Two Limited

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant

October Two Limited

Observer(s)

Damian McCann

Gerard Brogan

Barry and Jean Hanratty

Fergus Kelly

Councillor Tom Brabazon

Date of Site Inspection

20th January 2025

Inspector

John Duffy

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1.0 Site Location and Description

- 1.1 The subject site, which has a stated area of c. 0.358 ha, is broadly 'L' shaped and is located at Nos. 796 to 798 Howth Road, Dublin 5, to the east of Raheny and approximately 9 km north-east of Dublin city centre. This stretch of the Howth Road is relatively narrow in width, with narrow footpaths on either side. The northern side of this section of Howth Road (R105) is characterised by detached houses on relatively large individual plots. The southern side of Howth Road opposite the proposed development site, beyond the low rise stone wall, comprises a continuous pedestrian and cycle path to Bull Island, which is located to the south of the proposed development. The site benefits from exceptional views to Dublin Bay, Bull Island and Howth Head. Further west of the site at Nos. 778 – 784 Howth Road, as part of the Strand View development, 2 no. five storey apartment blocks of relatively recent construction overlook Dublin Bay.
- 1.2 The site comprises 2 no. two storey detached houses and their associated front and rear gardens. No. 796 is vacant and in a state of disrepair, while No. 798 is inhabited and in good condition. The houses are set-back from the road by approximately 10 m. The site frontage onto Howth Road measures approximately 48 m. There is a bus stop located immediately outside the site.
- 1.3 Adjoining sites at Nos. 794 and 800 Howth Road to the south west and north east, respectively, accommodate two storey dwellings and their associated gardens. The rear gardens associated with predominantly single storey / dormer bungalows at St. Margaret's Avenue adjoin the site to the rear.

2.0 Proposed Development

- 2.1 This is an application for permission for the demolition of 2 no. two storey detached houses and associated outbuildings and the construction of two apartment blocks, Blocks A and B, between 3 and 6 storeys over single basement which would provide 57 no. units. The floor areas of the buildings to be demolished are indicated as 406.9 sqm.
- 2.2 Block A, located to the front of the site, is of 4 to 6 storey design, with a maximum height of c 19 m in respect of the penthouse units which are set back. The side

elevations closest to the east and west boundaries are of 4 storey design and indicated as 12.75 m in height. Block A contains 36 no. apartment units comprising 6 no. 1 bed units and 30 no. 2 bed units. All units have balconies / terraces and there is a roof top terrace measuring c 81 sqm proposed.

2.3 Block B, located to the rear of Block A, is of 3 to 6 storey design, with a maximum height of 15.75 m in respect of the penthouse units which are set back. A 3 storey element projects from the rear / northern elevation with a height of c 10 m. Block B contains 21 no. apartments comprising 11 no. 1 bed units and 10 no. 2 bed units, all with balconies / terraces.

2.4 The vehicular entrance to the basement car park is proposed off Howth Road. Immediately south-west of this vehicular entrance is the entrance to a secondary internal road provided for fire tender access. Basement parking spaces for 215 bicycles and 2 no. motorbikes; 20 additional bicycle spaces at surface level. 38 car parking spaces are proposed in the basement (including 2 no. accessible spaces) and 21 of these will be designated EV bays. Refuse and recycling facilities are also proposed at basement level.

2.5 Public open space (334 sqm) is provided to the front of Block A.

2.7 Communal open space (1512 sqm) is provided in the form of a courtyard (898 sqm) between Blocks A and B, a rooftop garden (c 81 sqm) and an amenity area (545 sqm) to the north of Block B.

2.8 Key Development Statistics are set out as follows:

	Proposed Development
Site Area	0.358 ha
No. of apartment units	57 units in 2 blocks comprising 17 no. 1 bed units (30%)
Density	159 units per hectare (uph)
Plot Ratio	1.44

Site Coverage	34.8%
Height	Block A - 4 to 6 containing 36 units Block B – 3 to 5 storeys containing 21 units
Aspects	Dual aspect 72% Triple aspect 25%
Public Open Space	334 sqm
Communal Open Space	1512 sqm
Car Parking	38 spaces, 2 motorbike spaces
Bicycle Parking	235 spaces in total

2.9 In addition to the standard plans and particulars, the application as lodged was accompanied by the following reports and documentation:

- Planning Report
- Design Statement
- Community and Social Audit
- Demolition Justification Statement
- Historic Building Report
- Landscape Design Strategy and Landscape Plan
- Arboricultural Report, Tree Plans and Tree Survey
- Lighting Plan
- Daylight and Sunlight Analysis
- AA Screening Report
- Natura Impact Assessment
- Climate Action Energy Statement
- Preliminary Ecological Appraisal Report
- Site Specific Flood Risk Assessment (SSFRA)

- Engineering Services Report
- Operational Waste Management Plan (OWMP)
- Construction Environmental and Demolition Waste Management Plan
- Basement Impact Assessment (BIA)
- Building Lifecycle Report and Operational Management Statement
- Acoustic Design Statement
- CGI Views and Verified Photomontages
- Transport Assessment

3.0 Planning Authority Decision

The Planning Authority decided to refuse permission on the 20th March 2024 for the following two reasons:

1. The proposed development, by reason of its height, scale and massing results in an unacceptable form of development which is considered to be seriously injurious to the residential amenities of the surrounding properties by way of an undue overbearing impact with particular regard to the siting of Block B which results in excessive levels of overshadowing and undue overlooking of No's 15, 17 and 19 St. Margaret's Avenue and undue overlooking of No. 794 Howth Road. The proposed development would therefore be contrary to the Z1 zoning objective pertaining to the site which is 'To protect, provide and improve residential amenities' and as such the proposed development, by itself and by the precedent it would set would be contrary to the proper planning and sustainable development of the area.
2. The development is located on a narrow heavily trafficked road which is a bus route and active travel route. The proposal to service the development from the Howth Road together with a lack of service set down and drop-off arrangements to facilitate the operation of a development of this scale are considered inappropriate given the scale and location of development. This would lead to the generation of excessive servicing activity, drop-offs and overspill parking on the adjacent road network and footpaths thereby causing an obstruction to pedestrians, cyclists, bus services and other road users. The development is therefore considered contrary to Section 8.5.5 and Appendix 5 Section 2.4 of the Dublin City Development Plan 2022-

2028 and would endanger public safety by reason of traffic hazard. The development would set an undesirable precedent for similar locations.

3.1 Planning Authority Reports

3.1.1 Planning Report

The Planning Officer's report dated the 19th March 2024, sets out details of the proposed development, the site location, relevant planning history, reports received, a summary of submissions received, and all relevant national and local planning policy.

The report notes that the principle of residential development at this location, zoned Z1 – Sustainable Residential Neighbourhoods, is acceptable subject to compliance with the Dublin City Development Plan 2022-2028. However, the assessment further notes concern over a range of issues, summarised as follows:

- Proposed density at c 159 units per hectare (uph) is above the levels set out in the Dublin City Development Plan 2022-2028 and the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities 2024 (Table 3.1 refers).
- Proposed height of Block A (a 3 - 6 storey building with maximum parapet height of c 19.5 m) and how it relates to the surrounding context. Proposed height of Block B (a 3 - 5 storey building with maximum parapet height of c 15.9 m) located to the rear of the site and how it relates to the surrounding context. Report considers that the proposed development would have a significant negative impact on the immediate receiving environment.
- Concerns regarding the level of amenity to be provided by the communal open space for potential future residents. Minimal width walkways have limited recreational value; bicycle racks and ESB Sub-station / switch room are located on communal open space.
- Removal of majority of perimeter planting.
- Negative impacts on the residential amenities of adjoining houses on St. Margaret's Avenue given the proximity of Block B to the rear boundary in combination with its height.

- Overlooking impacts from front elevation of Block B onto rear garden of No. 794 Howth Road.
- The serious issue raised by TPD regarding the use of Howth Road to service the proposed development.
- The fact that the Preliminary Ecological Report has stated that further survey work is required for habitats (including invasive species), bats, breeding birds and wintering birds.

3.1.2 Other Technical Reports

Transport Planning Division (TPD): Refusal recommended. The report notes that the proposed development is located on a narrow heavily trafficked road which is a bus route and active travel route. The proposal to service the development from Howth Road together with a lack of service set-down and drop-off arrangements to facilitate the operation of a development of this scale is deemed inappropriate. This would lead to generation of excessive servicing activity, drop-offs and overspill parking on the adjacent road network, and footpaths, causing obstruction to pedestrians, cyclists, bus services and other road users. Proposal is contrary to Section 8.5.5 and Appendix 5 of the Development Plan, would endanger traffic by reason of traffic hazard, and would set an undesirable precedent.

Drainage Division: Further Information (FI) recommended including further assessment of the shallow groundwater levels within the marine beach deposits and evaluation of the potential mitigation measures presented to avoid adverse impacts on surrounding properties.

Archaeology, Conservation and Heritage: Notes that the proposed development is outside the Zone of Archaeological Constraint for any Recorded Monuments. Potential archaeological impact is considered to be low, although archaeological material may be discovered during groundworks. As such, inclusion of a condition requiring the City Archaeologist and other named bodies to be notified should such material be discovered, is recommended.

Environmental Health Officer (EHO): No objection subject to conditions including development of a Construction Management Plan and Construction and Demolition Plan.

Parks, Biodiversity and Landscape Services: Reservations expressed on the application, having regard to inappropriate proposals for public open space, the extent of tree removal to facilitate the proposed development, and the absence of a sufficient Ecological Impact Assessment (EclA). Draft conditions are provided if permission is granted.

3.2 Prescribed Bodies

The planning authority invited Uisce Eireann to comment on the application, however no submission was made.

3.3 Third Party Observations

The Planning Authority received 10 no. submissions. Concerns raised may be summarised as follows:

- Design and scale:
 - Monolithic development.
 - Incongruous design.
 - Overly dominant nature of the development.
 - Scale not representative of the area.
 - Tall building would disrupt the visual harmony and character of the area.
 - Abrupt / inappropriate transition in scale between the proposed development and adjoining houses.
 - Sustainable materials not used in the design.
- Impact on amenity:
 - Overlooking.
 - Overbearing impacts.
 - Overshadowing impacts
 - Incidental communal open space serving the proposed development.
 - Proposed roof garden is impractical.

- Excessive density and overdevelopment of site.
- Transport issues:
 - No transport assessment provided.
 - Insufficient parking provision.
 - Vehicular access could generate a hazard.
- Flooding concerns.
- Environmental / Biodiversity concerns:
 - Badger sett no longer on the site.
 - Removal of 30 trees contrary to Development Plan.
 - Fruit trees removed before NIS prepared to mask evidence of bat activity.
 - No mention of badgers or bats in the NIS
 - Brent geese land on the site.
 - The site contains a hidden river which is a habitat for frogs.
- Other
 - The proposed development would place pressure on local services.
 - Inadequate unit mix.
 - Devaluation of properties in the area.
 - Potential subsidence impacts on adjoining properties due to excavation to facilitate basement car parking.
 - No provision for visitor bike parking.
 - Contrary to / material contravention of Development Plan

4.0 Planning History

Subject site

Planning Authority Ref. WEB2580/24 refers to a **current application** lodged on 25th November 2024 for demolition of the 2 no. existing two-storey houses and associated outbuildings, and the construction of a new residential development in 3

no. new build blocks, Block A, Block B, and Block C ranging between 3 and 4 storeys in height. The development consists of 30 no. residential units (13 no. 1 bed units, 8 no. 2 bed units, and 9 no. 3 bed units), provision of vehicular and pedestrian access off Howth Road, 18 no. car parking spaces at surface level, 2 no. motorcycle parking spaces, 72 no. bicycle parking spaces and refuse and recycling storage facilities, including a bike/bin store. A Natura Impact Statement has been prepared in respect of the planning application. No decision at the time of writing this report.

Planning Authority Ref. WEB2149/24 refers to a November 2024 decision to refuse permission for the demolition of the existing two storey house (234.4 sqm) and associated outbuildings at No. 796, Howth Road, Raheny, Dublin 5. Refusal reasons are as follows:

1. The proposed demolition and loss of a habitable dwelling in the absence of an accompanying proposal for redevelopment of the application site would result in a vacant residentially zoned site for an undetermined period of time. It is considered that the presence of a vacant site in this residential area would seriously injure the residential amenities of property in the vicinity and would have a negative impact on visual amenity of this coastal route. The proposal would therefore be contrary to the site's Z1 zoning objective 'To protect, provide and improve residential amenities' and the vision for residential development in the city as set out in Section 14.7.1 of the Dublin City Development Plan, would depreciate the value of property in the vicinity and would not be in the interest of the proper planning and sustainable development of the area.
2. Having regard for the current housing and environmental climate, the proposed demolition of a habitable dwelling in the absence of an accompanying proposal for redevelopment of the application site is considered contrary to Section 15.4.3 (Sustainability and Climate Action), Section 15.7.1 (Re-use of Existing Buildings), and Section 9.0 (Demolition and Replacement Dwellings) of Appendix 18 of the Dublin City Development Plan 2022-2028, which seek to ensure that developments integrate the principles of energy efficiency in the building environment. The proposed development fails to adhere to these principles and is therefore considered contrary to the climate action policies of the Dublin City Development Plan 2022-2028 and to the proper planning and sustainable development of the area.

Planning Authority Ref. WEB1101/13 refers to a June 2013 decision to grant permission for removal of garage, porch, sun room, application of external insulation to dwelling, two-storey extension to north-west elevation and site works at 798 Howth Road, Dublin 5.

In the immediate vicinity

No. 806 Howth Road

An Bord Pleanála Ref. PL29N.310278 / PA Ref. 3800/20 refers to a June 2022 decision to grant permission for demolition of a dwelling and construction of 3 no. houses. Noteworthy condition:

12. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development.

Reason: In the interest of wildlife protection

This permission was amended under P.A. Ref. WEB2134/23 (decided in February 2024) which permitted changes to the parent permission comprising, inter alia, alterations to external glazing, change of bedroom use to gym and provision of a first floor balcony.

Strand View, formerly 778-784, Howth Road, Dublin 5:

An Bord Pleanála Ref. PL29N.305445 / PA Ref. 2475/19 refers to a February 2020 decision to grant permission for revisions to a permitted development comprising the addition of a new 4th floor penthouse level with the overall apartment blocks consisting of 58 apartments.

An Bord Pleanála Ref. PL29N.301265 / PA Ref. 4648/17 refers to a November 2018 decision to grant permission for demolition of 4 houses, construction of 16 houses to the rear of the site and 52 apartments in 2 no. 4 storey blocks.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

- 5.1.1. The site is zoned Z1-Sustainable Residential Neighbourhoods, the stated land-use zoning objective of which is 'To protect, provide and improve residential amenities'. 'Residential' is listed as a permissible use within this land-use zoning.
- 5.1.2. Chapter 3: Climate Action contains the Council's policies and objectives for addressing the challenges of climate change through mitigation and adaptation. The relevant policies from this section include:
- CA3: Climate Resilient Settlement Patterns, Urban Forms and Mobility
 - CA8: Climate Mitigation Actions in the Built Environment
 - CA9: Climate Adaptation Actions in the Built Environment
 - CA24: Waste Management Plans for Construction and Demolition Projects
 - CA25: Electric Vehicles
 - CA27: Flood Risk Assessment and Adaptation
- 5.1.3. Chapter 4: Shape and Structure of the City, sets out the Council's strategy to guide the future sustainable development of the city. The aim is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. The relevant policies from this chapter are:
- SC5: Urban Design and Architectural Principles
 - SC10: Urban Density
 - SC11: Compact Growth
 - SC12: Housing Mix
 - SC13: Green Infrastructure
 - SC14: Building Height Strategy
 - SC15: Building Height Uses
 - SC16: Building Height Locations

- SC17: Building Height
- SC19: High Quality Architecture
- SC20: Urban Design
- SC21: Architectural Design

5.1.4. Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable communities in the compact city is a key issue for citizens and ensuring that Dublin remains competitive as a place to live and invest in. The relevant policies from this chapter include:

- QHSN6: Urban Consolidation
- QHSN10: Urban Density
- QHSNO4: Densification of suburbs
- QHSN16: Accessible Built Environment
- QHSN17: Sustainable Neighbourhoods
- QHSN22: Adaptable and Flexible Housing
- QHSN36: High Quality Apartment Development

5.1.5. Chapter 8: Sustainable Movement and Transport, seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling congestion and reducing transport related carbon dioxide emissions.

Section 8.5.5 relates, inter alia, to servicing and states the following:

‘As the city intensifies, more pressure is being put on streets to accommodate the activity generated by existing and new developments. The kerbside space traditionally available for this is being continually reduced in favour of transport infrastructure and public realm improvements. As such, there is very limited capacity on street to meet the servicing requirements of developments.

This plan will proactively address the challenges facing the city centre from an operational point of view. The City Council commits to the development of a

servicing strategy for the city which will consider sustainable 'last mile' delivery (optimising the last leg of the delivery to reduce emissions and congestion), the provision of delivery hubs and the application of smart technology to make kerbside activity more efficient. Dublin City Council will also actively work with private developers through the Development Management process to ensure effective service management strategies are developed to minimise the impact on the surrounding road network (see Appendix 5 for further detail).'

- 5.1.6. Chapter 9: Sustainable Environmental Infrastructure and Flood Risk, aims to address a broad range of supporting infrastructure and services including water, waste, energy, digital connectivity, and flood risk/surface water management. The relevant policies of this section are

SI14: Strategic Flood Risk Assessment

SI15: Site Specific Flood Risk Assessment

- 5.1.7. Chapter 15: Development Standards contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed, both in terms of how they contribute to the achievement of the core strategy and related policies and objectives. Relevant sections of Chapter 15 include (but are not limited to):

15.4: Key Design Principles

15.5: Site Characteristics and Design Parameters

15.5.2: Infill development: requires that infill development, inter alia, complements the existing streetscape and respects and enhances its context, is well integrated with its surroundings, ensuring a more coherent cityscape.

15.6: Green Infrastructure and Landscaping

15.15.1: Archaeology

15.15.2: Built Heritage

15.18: Environmental Management

- 5.1.8. Relevant Appendices include

Appendix 3: Achieving Sustainable Growth sets out the height strategy for the city, with criteria for assessing higher buildings and provides indicative standards for density, plot ratio and site coverage.

Appendix 5: Section 2.4 relates to Service Delivery and Access Strategy. It states:

For residential developments, details of access for service vehicles shall be considered at an early stage in the design process. Access for emergency vehicles, refuse collections and general servicing needs (i.e. domestic/household deliveries) shall be adequately demonstrated.

For larger developments (residential and non-residential), a Delivery and Service Management Plan shall contain, but is not limited to, the following information:

- *Details how the proposed development will be accessed and served by deliveries, including refuse vehicles and emergency vehicles;*
- *Confirm the number, type and frequency of service vehicles envisaged for the development and detail the locations from which servicing will occur and how it will be managed;*
- *Swept-path analysis demonstrating the safe manoeuvrability of all vehicles servicing the site.*

Appendix 16: Sunlight and Daylight provides direction on the technical approach for daylight and sunlight assessments.

5.2. National Planning Context

5.2.1. National Planning Framework (NPF)

National Policy Objective 2a: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.

National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

National Policy Objective 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2.2. 'Housing for All - a New Housing Plan for Ireland (September 2021)'

This is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes: - To purchase or rent at an affordable price, - Built to a high standard in the right place, - Offering a high quality of life.

5.3. Regional Planning Context

5.3.1. Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly (EMRA) (2019-2031)

The RSES supports the implementation of the NPF by providing a long-term strategic planning and economic framework for the region up to 2031.

Regional Policy Objective 3.1: Key stakeholders, including local authorities in the Region shall, through their policies and objectives including development plans, commit to the delivery of the Growth Strategy as detailed in the RSES.

The growth strategy for the Region includes, inter alia, delivering the sustainable growth of the Metropolitan Area through the Dublin Metropolitan Area Strategic Plan (MASP) and embedding a network of Key Towns through the Region to deliver sustainable regional development.

Regional Policy Objective 3.2: Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

Regional Policy Objective 3.3: Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration

sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for new Apartments Guidelines' and the 'Urban Development and Building Heights Guidelines for Planning Authorities'

Regional Policy Objective 3.7: Local authorities shall have regard to environmental and sustainability considerations for meeting sustainable development targets and climate action commitments, in accordance with the National Adaptation Framework. In order to recognise the potential for impacts on the environment, local authorities shall address the proper site/route selection of any new development and examine environmental constraints including but not limited to biodiversity, flooding, landscape, cultural heritage, material assets, including the capacity of services to serve any new development.

Regional Policy Objective 4.3: Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

Regional Policy Objective 5.3: Future development in the Dublin Metropolitan Area shall be planned and designed in a manner that facilitates sustainable travel patterns, with a particular focus on increasing the share of active modes (walking and cycling) and public transport use and creating a safe attractive street environment for pedestrians and cyclists.

Regional Policy Objective 5.4: Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas'¹³, 'Sustainable Urban Housing: Design Standards for New Apartments' Guidelines and 'Urban Development and Building Heights Guidelines for Planning Authorities'¹⁴.

Regional Policy Objective 5.5: Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the

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

5.4. Section 28 Guidelines

5.4.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020, updated in 2023) (the 'Apartment Guidelines').
- Urban Development and Building Heights Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management Guidelines (including the associated Technical Appendices) (2009).
- Nature-based Solutions to the Management of Rainwater and Surface Water Runoff Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document, 2022.

5.4.2. *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, (2024)*

These Guidelines set out national planning policy and guidance in relation to the creation of settlements that are compact, attractive, liveable and well designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlements.

Table 3.1 of the guidelines states that sites within suburban and urban extensions areas should aim to achieve a density of 40-80 units per hectare (net). It further notes that densities of up to 150 dph (net) shall be open for consideration at

'accessible' suburban / urban extension locations, as defined in Table 3.8. This definition provides for:

1. High Capacity Public Transport Node or Interchange

Lands within 1,000 metres (1km) walking distance of an existing or planned high capacity urban public transport node

or locations within 500 metres walking distance of an existing or planned BusConnects 'Core Bus Corridor

2. Accessible Location

Lands within 500 metres (i.e. up to 5-6 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services.

3. Intermediate Location

Lands within 500-1,000 metres (i.e. 10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus services

4. Peripheral

Lands that do not meet the proximity or accessibility criteria detailed above

Development standards for housing are set out in Chapter 5, including:

1. SPPR 1 in relation to separation distances (16 m above ground floor level).
2. SPPR 2 in relation to private open space (2-bed 30 sqm ; 3-bed 40 sqm ; 4+bed 50 sqm).
3. SPPR 3 in relation to car parking (1.5 spaces per dwelling in accessible locations).
4. SPPR 4 in relation to cycle parking and storage.

Section 4.4 of the Guidelines set out Key Indicators of Quality Design and Placemaking. It considers that achieving quality urban design and creating a sense of place is contingent on the provision of an authentic identity that is specific to the settlement, neighbourhood or site in question. Section 4.4 (V) relates to responsive built form.

Policy and Objective 4.2 states that it is a policy and objective of these Guidelines that the key indicators of quality urban design and placemaking set out in Section 4.4 are applied within statutory development plans and in the consideration of individual planning applications

Policy and Objective 5.1 relates to public open space provision and requires development plans to make provision for not less than 10% of the net site area and not more than a minimum of 15% of the net site area save in exceptional circumstances. Sites with significant heritage or landscape features may require a higher proportion of open space.

5.4.3 *Urban Development and Building Heights Guidelines for Planning Authorities (2018)*

These Guidelines expand on the compact development objectives of the NPF and remove the blanket numerical limitations on building height which previously applied under county development plans, including the Dublin City Development Plan 2016-2022.

In considering appropriate building heights in suburban/edge locations within cities and towns, the Guidelines note that newer housing developments in these areas typically include a range of unit types and heights. These include townhouses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). Such developments address the need for more 1 and 2 bedroom units, while at the same time provide larger family homes, thus enabling households to meet changing accommodation requirements within the same locality.

The Guidelines confirm that an effective mix of 2, 3 and 4-storey developments should be included in such areas, which integrates well into existing and historical neighbourhoods. The Guidelines note that development of 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets.

5.5. **National Biodiversity Plan 2023-2030**

The National Biodiversity Plan identified 5 objectives which include for Adopt a Whole-of Government Whole-of-Society Approach to Biodiversity; Meet Urgent Conservation and Restoration Needs; Secure Nature's Contribution to People Enhance the Evidence Base for Action on Biodiversity; and Strengthen Ireland's Contribution to International Biodiversity Initiatives.

5.6. Natural Heritage Designations

The subject site is not within any Natura 2000 sites. The site has frontage onto Howth Road. North Dublin Bay SAC (Site Code 000206), North Bull Island SPA (Site Code 004006) and North Dublin Bay Proposed Natural Heritage Area are located c 18 m south of the site.

5.7. EIA Screening

See Forms 1 and 2 below. The scale of the proposed development does not exceed the thresholds set out in the Planning and Development Regulations 2001, as amended, in Schedule 5, Part 2, Class 10, and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1 Grounds of Appeal

This is a first party appeal against the decision made by Dublin City Council to refuse permission. The grounds of the appeal are summarised as follows:

Height, scale and massing / Residential amenity / Other

- Heights proposed for each block are formed with the use of setbacks at higher storeys and side elevations in order to protect residential amenity.
- Height proposals are considered to align with national policy to increase height and density at appropriate locations.
- There is a clear shift in development heights in the local context, with precedent established along the coastal stretch from Clontarf to Sutton.
- Neighbouring development at Nos. 778-784 Howth Road has altered the general character of the area in terms of height and is a relevant consideration in the assessment of the proposal and its proposed height.
- Planning Authority has acknowledged that higher density is appropriate at this location.

- The Planning Authority's main concern is with Block B due to overlooking impacts on properties at St. Margaret's Avenue and No. 794 Howth Road.
- Separation distances between Block B and housing at St. Margaret's Avenue are greater than 16 m. While some overshadowing of rear gardens may occur, there will be no overlooking impacts into habitable rooms associated with these houses.
- Amendments to the design are submitted with this appeal and they are considered to address third party concerns in terms of impacts on residential amenities. In terms of Block A, one floor is proposed for removal from the projecting element facing the rear courtyard. In terms of Block B, a full middle floor is removed, resulting in a building which is 2 – 4 storeys in height.
- The amendments result in omission of 6 no. units. The level of perceived overlooking and overbearing impacts are reduced and overshadowing impacts of properties to the north are also reduced.
- Proposed scheme is the most economically viable option.

Service set-down and drop-off arrangements

- The Howth Road is the only means of access that the site has in terms of vehicular, pedestrian and service traffic.
- Several higher density schemes are developed on brownfield lands along the coastal route between Clontarf and Sutton. They all have access arrangements from Howth Road, were accepted by the planning authorities and are successfully operational in terms of access and service arrangements.
- From an assessment of these developments, their pedestrian and vehicular access arrangements are near identical to what is proposed in this scheme. Given the established acceptability of similar access arrangements in similar schemes nearby, it is not understood why this is such a significant issue and one which warrants refusal of permission.
- The opposite side of the road to the subject site comprises a dedicated cycle path and pedestrian walkway protected from traffic by a stone wall. This encourages use of this facility by pedestrians / cyclists reducing potential for conflicts with service vehicles entering the site.

- The appeal includes an amended layout for service set-down and drop-off arrangements to facilitate the operation of the development, achieved by way of an adjustment to the front of the site. The revised arrangement would be used only on an occasional basis.

The appeal includes the following attachments:

- Revised Daylight and Sunlight Analysis dated 12th April 2024
- Revised section drawings (Drawing Nos. PA-300-1 and PA-300-2)
- Revised elevation drawings (Drawing Nos. PA-402-01, PA-402-02, PA-403-01, PA-403-02)
- Road markings and signage layout (Drawing No. 015)
- CGI views and verified photomontage

6.2 Planning Authority Response

An Bord Pleanála received a response from the Planning Authority to the appeal on 15th May 2024. The response requests that the decision to refuse permission is upheld, but that if permission is granted, specific conditions be attached, including a Section 48 condition and a condition requiring payment of a contribution in lieu of the open space requirement not being met. The response also includes a submission from the TPD which notes the applicant's attempt to address the servicing concern, however it considers that the revised layout relies on excessively wide and multiple vehicular access points along Howth Road to overcome constraints that the layout and density of the proposal presents.

6.3 Observations

An Bord Pleanála received 5 no. observations in connection with the first party appeal from the residents of Nos. 15 and 17 St. Margaret's Avenue, which adjoin the site to the north-west, the residents of Nos. 794 and 800 Howth Road, adjoining the site to west and east respectively and from Councillor Tom Brabazon. The concerns raised may be summarised as follows:

Impact on residential amenities

- The proposed development gives rise to overlooking, overshadowing and overbearing impacts on adjoining properties and is therefore seriously injurious to the residential amenities of the area.
- Many of the apartments do not meet the required Lux levels as per Appendix C in the Daylight / Sunlight report.

Design / Impact

- Block A is forward of the established building line on Howth Road and it should be set back at least 2 m behind the adjoining houses on Howth Road.
- Proposed development constitutes a visually discordant feature.
- Block B is incongruous and there is a stark transition in scale between it and adjoining housing at St. Margaret's Avenue. This block would seriously injure the visual amenities of the area.
- The proposed design is generic and ignores surrounding lower scale housing.

Height, density and scale of development

- Excessive scale, height and massing of the proposed development.
- Proposed density excessively high and above the general density range as set out in the Development Plan. Maximum density should be 60 uph.
- Overdevelopment of the subject site.

Unit mix

- Inadequate unit mix given that there is an insufficient number / omission of 3 bedroom units proposed.
- The rear of the site should be used to construct houses which would result in a more family friendly scheme.
- The scheme does not cater for a sufficient range of household types and tenures.

Trees / Biodiversity / Open space

- NIA was undertaken in December which is not an optimal time of year for such a study.

- The site was formerly a river bed and there is a large number of toads and frogs present.
- The site is close to the protected UNESCO Biosphere at Bull Island.
- Proposed height and glazing could adversely impact bird life and other wildlife at Bull Island.
- Existing trees and hedgerows should be retained as a means of providing boundary screening as well as for biodiversity value.
- Fruit trees were removed from the site.
- The English oak tree is in a dangerous state.
- Poor communal open space between blocks A and B, which is also to be used for vehicular access and deliveries.
- Lack of open space should not be addressed by a contribution condition.

Transport issues

- No traffic / transport plan provided.
- Insufficient car parking will result in overspill parking on nearby roads.
- Traffic hazard when egressing from the site for drivers travelling to city centre.
- The site is not served by a good transport service.

Other

- Ministerial Guidelines can only be countenanced in the context of the overall vision and objectives of the Dublin City Development Plan 2022-2028. The proposed development contravenes the current Development Plan. Proposed development fails to comply with criteria relating to infill development.
- Reference made to the Rita O'Neill v An Bord Pleanála legal case / judgement.
- No provision in the Planning and Development 2000 Act, as amended, for the Board to consider revised / materially amended plans with the appeal. This denies the planning authority and third parties from their rights to comment on the revisions.
- Proposed changes made as set out in the appeal are insufficient / inadequate.

- The proposed revised layout constitutes a safety risk as emergency vehicles do not appear to have an access pathway to the rear of Block B.
- Share the concerns of the planning authority in relation to the servicing of the site as set out in the second refusal reason.
- Flooding.
- If permitted, a condition should be attached requiring a high percentage of the properties to be sold to persons intending to live there. Buy-to-let is contrary to sustainable community development.
- Proposed basement carpark will mean there will be no potential to unlock further backland sites, including that of the rear garden associated with No. 800 Howth Road.
- Siting of proposed plant room at boundary with No. 800 would interfere with the enjoyment of the patio area associated with that property.
- Storage capacity of the units is questioned.
- More sustainable building materials should be used.
- No CGI images available from rear gardens of St. Margaret's Avenue.
- No. 15 St. Margaret's Avenue has been omitted from Appendices F and G of the Daylight and Sunlight Analysis.
- Out of character with the area.

7.0 **Assessment**

Having examined the application details and all other documentation on file, including the appeal, having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Scope of appeal
- Overshadowing, overbearing and overlooking impacts on neighbouring properties
- Height and Density

- Transport issues
- Impact on trees and biodiversity
- Other issues
- Appropriate Assessment

7.1 Scope of appeal

- 7.1.1. I note that the first party appeal includes revised plans and drawings, revised CGIs and an amended daylight and sunlight analysis. The revised drawings demonstrate, inter alia, height reductions in a number of elements in Block A and Block B. These changes result in the omission of 6 units across the scheme. Furthermore, the appeal provides a new layout for service set-down and drop-off arrangements to facilitate the operation of the proposed development.
- 7.1.2. It is apparent that this revised proposal is submitted with a view to overcoming the refusal reasons as set out in the planning authority's decision.
- 7.1.3. In my opinion it is inappropriate at appeal stage to consider such information given that it constitutes a material departure from the development as originally applied for.
- 7.1.4. This assessment will consider the proposal as applied for and the planning authority's decision to refuse permission. It will not assess the revisions / material amendments to the development which are submitted with the appeal.

7.2. Overlooking, overbearing and overshadowing impacts on neighbouring properties

- Impacts on existing housing at St. Margaret's Avenue

- 7.2.1. The owners of Nos. 15 and 17 St. Margaret's Avenue object to the proposed development on a number of grounds, including overshadowing, overlooking and overbearing impacts. I note that the rear gardens of these dormer bungalows bound the appeal site to the north-west, with a minimum separation distance of approximately 10.8 m between Block B and the shared rear boundary, and a separation distance in excess of 50 m between these houses and Block B.
- 7.2.2. Block B ranges in height from 3 to 5 storeys, with a 3 storey projection positioned to the rear of the block, which incorporates balconies on its rear elevation. In terms of overlooking impacts, while I am satisfied that no direct overlooking into houses along

St. Margaret's Avenue would occur due to the aforementioned separation distances, I have a concern that the rear balconies of Block B, set off the rear boundary by c 9.5 m, would overlook the rear private amenity spaces of adjoining houses to the north-west, leading to a loss of privacy.

- 7.2.3. Noting the separation distances between Block B and the mutual boundaries to the north-west, along with the massing, bulk and height of Block B, which is c 15.75 m at its maximum point, along with the abrupt transition in scale which is at odds with the lower scaled residential development adjoining the site, I consider that Block B would have unduly overbearing impacts on these properties. In my view, a more appropriate development type at this backland location would comprise a block of two storey housing, similar to that previously permitted at Strand View (778-784 Howth Road). This typology would not likely result in undue overlooking and overbearing impacts on adjoining lands.
- 7.2.4. Appendices F, G and H contained in the submitted Daylight and Sunlight Analysis provide an analysis and associated results relating to respective daylight and sunlight access to existing buildings in the immediate area and sunlight access to neighbouring amenity areas including Nos. 17 and 19 St. Margaret's Avenue.
- 7.2.5. The Analysis is prepared in accordance with 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' – Third Edition (BRE 2022). The Analysis notes that the window layout was not available for Nos. 17 and 19 and therefore a point at the centre of the wall facing the proposed development was taken as the assessment point as recommended by the BRE Guide. The central points on the rear elevations of Nos. 17 and 19 were tested for Impact/Change for Daylight – Vertical Sky Component (VSC) and Impact/Change for Probable Sunlight Hours (PSH), Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WPSH).
- 7.2.6. The Analysis notes that if the VSC is less than 27%, and less than 0.8 times its former value, the daylight to an existing building may be adversely affected. **Appendix F** sets out the results of daylight access to existing buildings including Nos. 17 and 19 St. Margaret's Avenue and confirms that when the new development is in place, the central tested areas comply with the 27%, 0.8 ratio requirements for habitable rooms, with the VSC change ratio given as 0.85 for No. 17 and 0.89 for

No. 19. As such, the Assessment finds that the proposed development complies with the BRE guidelines relating to the daylight availability for Nos. 17 and 19.

7.2.7. In terms of testing for the amount of sunlight access, the Analysis notes that the sun lighting of an existing dwelling may be adversely affected if the centre of the window:

- Receives less than 25% of APSH and less than 0.8 times its former annual value; or less than 5% of APSH between 21 September and 21 March and less than 0.80 times its former value during that period; and
- And also has a reduction in sunlight received over the whole year greater than 4% of APSH.

7.2.8. **Appendix G** sets out the results of sunlight access to existing buildings including Nos. 17 and 19 St. Margaret's Avenue. With the proposed development in place it is apparent that the APSH and WPSH criteria are met.

7.2.9. The next part of the Analysis relates to sunlight access to amenity areas, and the rear private amenity areas of Nos. 9, 11, 13, 15, 17, 19, 21 and 23 St. Margaret's Avenue are examined in this regard. BRE Guidelines recommend that for an existing garden or amenity area to appear adequately sunlit throughout the year, at least half of the space should receive at least 2 hours of sunlight on 21st March.

7.2.10. **Appendix H** contains the results of sunlight access to neighbouring amenity areas and it finds that 100% of the tested neighbouring amenity spaces (rear garden and rear patio) pass the BRE 2-hours of sunlight on the 21st of March. Therefore, the proposal complies with the requirements of the BRE guidelines with regards to sunlight to amenity areas.

7.2.11. **Appendix I** of the Daylight and Sunlight Analysis contains site shadow diagrams for March 21st, June 21st and December 21st. I note that all diagrams reflect the proposed development and that there are no diagrams which relate to the existing development on the site.

7.2.12. Upon review of the shadow diagrams, I consider that the proposed development, particularly Block B, would cause serious overshadowing impacts to properties along St. Margaret's Avenue, located north of the appeal site. While I note that the City Development Plan acknowledges that the city is an urban context and some degree of overshadowing is inevitable and unavoidable, it is clear that the level of

overshadowing in this instance is significant, and in my view, it is sufficient to warrant a refusal of permission.

7.2.13. To conclude, I consider that the proposed development would seriously injure the residential amenities of a number of properties along St. Margaret's Avenue on the basis of overlooking, overbearing and overshadowing impacts.

- **Impacts on No. 794 Howth Road**

7.2.14 No. 794 Howth Road is a two storey detached house which adjoins the site to the south-west.

7.2.15 The separation distance between proposed Block A, located to the front of the site, and No. 794 is c 4 m. The western elevation of Block A is largely finished in brick and it ranges in height from 4 to 6 storeys (maximum height of c 18.9 m). The height differential between the proposed development and No. 794 is significant at c 10.6 m. This, in combination with the proposed separation distance of c 4 m between the structures, and the juxtaposition of Block A to No.794 would, in my opinion, have a significant overbearing impact on that existing property, which in turn would give rise to undue injury to the residential amenities enjoyed at this location.

7.2.16 The front elevation of Block B, a 3 to 5 storey building, would overlook the rear private amenity space associated with No. 794 Howth Road, leading to a loss of privacy, thereby giving rise to negative impact upon residential amenities.

7.2.17 **Appendix F** of the Daylight and Sunlight Analysis sets out the results of daylight access to existing buildings in the vicinity including No. 794 Howth Road. The results confirm that when the new development is in place, two windows positioned to the side of the house would not meet BRE criteria, that is, they would fall below the 27% VSC proposed and 0.8 VSC ratio requirements for habitable rooms.

7.2.18 The Daylight and Sunlight Analysis notes however that these two windows are proximate to two larger south facing win and that each pair is associated with the same room. It is therefore concluded that the larger south facing windows would be unaffected by the proposal and the rooms would continue to be well lit. I concur with this analysis.

7.2.19 **Appendix G** sets out the results of sunlight access to existing buildings including No. 794 Howth Road and it confirms that the APSH and WPSH criteria are met with the proposed development in place.

7.2.20 **Appendix H** sets out the results of sunlight access to neighbouring amenity areas including that associated with No. 794 Howth Road and concludes that post-development it passes the BRE 2 hours of sunlight on the 21st of March.

7.2.21 **Appendix I** contains site shadow diagrams, however as mentioned above, no diagrams are provided which reflect the existing development. Additional overshadowing of No. 794 and its private amenity space is most prominent during morning hours on the 21st March.

7.2.22 To conclude, I consider the proposed development would have overbearing and overlooking impacts on No. 794 Howth Road and its private amenity space.

- **Impacts on No. 800 Howth Road**

7.2.23 No. 800 Howth Road is a two storey detached house which adjoins the site to the north-east.

7.2.24 The separation distance between the side elevation of proposed Block A, which is of four storey design, and that of No. 800 is c 6 m. Having regard to this separation distance, I do not consider that Block A has an unduly overbearing impact on this property.

7.2.25 The front elevation of Block B, a 3 to 5 storey building, would overlook part of the rear private amenity space associated with No. 800 Howth Road, leading to a loss of privacy, thereby giving rise to negative impact upon residential amenities.

7.2.26 While I note the concern expressed by the owner of No. 800 in relation to the proximity of the proposed plant room to the joint boundary and their rear private amenity space, I would not foresee any undue disturbance impacts arising, providing appropriate soundproofing, including the use of acoustic barriers / panels, are used. This matter could be conditioned if a grant of permission is under consideration.

7.2.27 **Appendix F** of the Daylight and Sunlight Analysis sets out the results of daylight access to existing buildings in the vicinity including No. 800 Howth Road. The results confirm that when the new development is in place, two windows positioned to the side of the house, out of six windows examined, would not meet BRE criteria, that is,

they would fall below the 27% VSC proposed and 0.8 VSC ratio requirements for habitable rooms.

- 7.2.28 The Daylight and Sunlight Analysis notes however that these one of the two windows serves a bathroom which does not require assessment under BRE Guidelines. The second window forms part of a larger window facing south, thereby ensuring that the room would continue to be well lit. I concur with this analysis.
- 7.2.29 **Appendix G** sets out the results of sunlight access to existing buildings including No. 800 Howth Road and it confirms that the APSH and WPSH criteria are met with the proposed development in place.
- 7.2.30 **Appendix H** sets out the results of sunlight access to neighbouring amenity areas including that associated with No. 800 Howth Road and concludes that post-development it passes the BRE 2 hours of sunlight on the 21st of March.
- 7.2.31 **Appendix I** contains site shadow diagrams, however as mentioned above, no diagrams are provided which reflect the existing development. Additional overshadowing of No. 800 is most prominent during mid to late afternoon hours on the 21st March.
- 7.2.32 To conclude, I consider the proposed development would overlook the rear private amenity space of No. 800 Howth Road.

7.3. **Density, Height and Scale**

- 7.3.1. Permission is sought for the development of 57 no. apartment units within two apartment blocks (Blocks A and B) on a site measuring 0.358 ha with a resultant density of 159 units per hectare. Block A, located to the front of the site is a 4 to 6 storey building with a maximum height of c 19 m. Block B is a 3 to 5 storey building located to the rear of Block A, with a maximum height of c 15.75 m.
- 7.3.2. The appellant considers that both the height and density of the proposed development are appropriate at the subject location and I note the favourable assessment undertaken on behalf of the applicant at Appendix 1 of the Planning Report submitted with the application in relation to the performance criteria in assessing proposals for enhanced height, density and scale, as set out in Table 3, Appendix 3 of the Dublin City Development Plan 2022-2023.

- 7.3.3. The submissions received from the observers express the view that the proposed height and density of development is excessive, constituting overdevelopment and resulting in multiple adverse impacts.

Density

- 7.3.4. Section 3.2 of the Dublin City Development Plan 2022-2028 relates to density and notes that highest densities should be located at the most accessible and sustainable locations. It emphasises that there should be a focus not just on maximising density to maximise yield but on a range of qualitative criteria and other factors including architecture, community facilities and quality placemaking. The density of a proposal should respect the existing character, context and urban form of an area and protect existing and future residential amenity. Public transport accessibility and capacity also determine the appropriate density permissible.
- 7.3.5. Table 1 of Appendix 3 of the City Development Plan identifies a density range of 60-120 uph (net) for sites located within the Outer Suburbs, such as the proposed development site. The text below Table 1 in the City Plan notes that schemes of increased density are often coupled with buildings of increased height and scale and in such instances where buildings and density are significantly higher and denser than the prevailing context, the performance criteria set out in Table 3 shall apply.
- 7.3.6. Table 3.1 of the Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) relates to areas and density ranges in Dublin and Cork City and Suburbs. I consider the subject site to fall into the 'City-Suburban / Urban Extension' category where residential densities in the range 40 dph to 80 dph (net) are generally applied, and that densities of up to 150 dph (net) are open for consideration.
- 7.3.7. The density proposed is 159 uph, which is significantly above the density range envisaged for Outer Suburbs as set out in Table 1 of Appendix 3 of the City Development Plan and in excess of 150 uph identified in Table 3.1 of the Compact Settlements Guidelines. The proposed scheme is also significantly denser than the existing prevailing character and pattern of development along this stretch of Howth Road, which is largely characterised by single dwellings on large plots. As such, it is appropriate that the performance criteria of Table 3 are considered. The nearest higher density scheme to the subject site is the Strand View development at Nos.

778-784 Howth Road comprising a mix of housing and apartments (74 units in total) on a 0.8931 ha site yielding a density of 82 uph.

Height and Scale

- 7.3.8. Section 4 of Appendix 3 of the City Development Plan addresses how to achieve sustainable height and density. The proposed development comprises apartment blocks ranging in height from 3 to 6 storeys, which is significantly above the immediate prevailing context of the area. Houses adjoining the subject site are either of single or two storey design, while the apartment buildings at the Strand View residential development, located c 90 m south west of the site, are of 5 storey design.
- 7.3.9. Section 4 also refers to the Building Height Guidelines, noting that heights of at least three to four storeys, with appropriate densities, will be supported in areas including in suburban locations. 'Greater heights will be considered on a case by case basis, having regard in particular to the prevailing site context and character, physical and social infrastructure capacity, public transport capacity and compliance with all of the performance criteria set out in Table 3.'
- 7.3.10. Having regard to the foregoing, the deviation of the proposed development in terms of height, scale and density from the surrounding area, together with height and density ranges identified within Section 28 Guidelines and the City Development Plan, the proposed development is required to be considered in terms of Table 3 of Appendix 3 of the Dublin City Development Plan 2022-2023. I have applied the performance criteria in my assessment in Table 1 below.

Table 1: Performance Criteria in Assessing Proposals for Enhanced Height, Density and Scale

<i>Criteria 1 – To promote development with a sense of place and character</i>	In my view, the proposed development comprising two apartment blocks ranging in height from 3 to 6 storeys is out of character with the immediate area, where the prevailing pattern of development is single and two storey housing.
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	Block A is considered to be of excessive scale and height (c 19 m), with an overly vertical emphasis and would be overly dominant in the streetscape. I consider that Block B, a 3-5 storey block with a height and width of c 16 m and c 24 m respectively, proximate to the rear of the site, to be problematic, for the reasons set out below. The design, scale and height of the blocks has implications in terms of impacts on the residential amenities of adjoining houses, particularly No. 794 Howth Road and houses to the rear of the site at St. Margaret's Avenue, having regard to the separation distances proposed and the juxtaposition of blocks relative to boundaries. This is addressed further in section 7.2 of my report. The design and layout of the proposed development requires further consideration. Both blocks are considered to be visually dominant when viewed from Howth Road and / or adjoining lands.
<i>Criteria 2 – To provide appropriate legibility</i>	The subject site constitutes a brownfield infill development site, where the provision of or enhancement of permeability would be achievable. The

	site addresses Howth Road which provides road, path and cycle infrastructure facilitating permeable connectivity to the wider area. There is a bus stop outside the site with Howth Road forming part of the H Spine of BusConnects route, providing high frequency bus services at this location. The proposed development would be very noticeable and prominent in the area, as indicated in the CGIs provided. The proposed development does not integrate with the street scape and public realm along this part of Howth Road. I do not consider that the proposed development would make a positive contribution to the legibility of the streetscape and the wider area.
<i>Criteria 3 - To provide appropriate continuity and enclosure of streets and spaces</i>	I am concerned that the significant height, scale and massing of the proposed development would be out of character and would not be an appropriate response to a site where the prevailing character and pattern of development in the area is two storey housing. I note that proposed Block A is higher than the 5 storey apartment blocks in the nearby Strand View development (778-784 Howth Road), which has

	altered the character of the area somewhat. The height, massing and width of Block B are completely at odds with adjoining development and there is an abrupt transition in scale between that proposed backland building and adjoining lower scale housing in St. Margaret's Avenue. Buildings of a different height, scale, mass and form could foster a sense of place and character at this location which would be more consistent with the character of the area. In my view, a more appropriate development type towards the rear of the site would comprise a block of two storey housing, similar to that previously permitted at Strand View. This typology would not likely result in undue overlooking and overbearing impacts on adjoining lands.
<i>Criteria 4 - To provide well connected, high quality and active public and communal spaces.</i>	Public open space (c 334 sqm) in the form of a lawn is provided to the front of Block A, however I would question the quality and amenity value of same, given its limited width and its location between Block A and the front site boundary. Communal open space (1512 sqm) is provided in the form of a courtyard (898 sqm) between Blocks A and B, a rooftop

	garden (c 81 sqm) and an amenity area (545 sqm) to the north of Block B. Outdoor recreational facilities need to be expanded and detailed and should cater for a range of age groups. Paths running at the sides of the blocks have very limited amenity value. There are bicycle storage facilities and an ESB substation / switch rooms located on communal open space. Such areas should not be counted as communal open space. Appendix E of the Daylight and Sunlight Analysis states that 81% of the amenity space receives 2 hours of light on 21st March and therefore complies with BRE criteria.
<i>Criteria 5 - To provide high quality, attractive and useable private spaces</i>	All units are served with balconies or terraces which are of high quality and above minimum size standards. There are concerns in relation to overlooking from the proposed scheme onto existing adjoining residential properties / private open space. This is addressed further within section 7.2 of my report. The Daylight and Sunlight Analysis demonstrates that 99% of the rooms assessed in the scheme meet or exceed BRE criteria in terms of daylight provision.

	The Daylight and Sunlight Analysis demonstrates that 55 of the 57 apartments (96.5%) in the scheme meet or exceed BRE criteria of receiving at least 1.5 hours of sunlight on 21st March.
<i>Criteria 6 - To promote mix of use and diversity of activities</i>	The proposed development does not provide for a mix of activities. Permission is being sought solely for a residential development, which I consider to be acceptable. The proposal provides for a mix of 1 bed (30%) and 2 bed (70%) units which is considered to be acceptable and in accordance with Section 15.9.1 'Unit Mix' of the City Development Plan and SPUR1 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, 2023. 27 apartment units (46%) exceed the minimum floor area by 10%. This is not in accordance with Section 15.9.2 of the City Development Plan which requires the majority of all apartments in a scheme of 10 or more units to exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%
<i>Criteria 7 - To ensure high quality and environmentally sustainable buildings.</i>	35% of units are triple aspect, 37% are dual aspect and 28% are single aspect and face south.

	A SSFRA is provided which locates the proposed development in Flood Zone C. The application includes a Construction Environmental and Demolition Waste Management Plan. A Climate Action Energy Statement is provided which sets out how the proposed development aligns with energy efficiency requirements. A Building Lifecycle Report and Operational Management Statement is submitted. It includes details on assessment of long-term running and maintenance costs, measures to reduce costs, waste management and health and well-being. PV panels are proposed at roof level. A BER rating of A2 for each apartment is forecast. Plant is located primarily at basement level rather than at roof level.
<i>Criteria 8 - To secure sustainable density, intensity at locations of high accessibility</i>	The proposed development is located in a 'City-Suburban / Urban Extension' area along Howth Road which has the benefit of high frequency bus services ('H' Spine – BusConnects). Issues identified by the TPD relating to the servicing of the proposed development as required by the City Development Plan (Section 8.5.5 and

	Section 2.4, Appendix 5) would need to be addressed. I consider that the development of this site needs to represent a balance between the location of the site proximate to high frequency bus services and the prevailing character of the area which comprises traditional residential developments adjoining the site.
<i>Criteria 9 - To protect historic environments from insensitive development</i>	There are no historic designations associated with the appeal site. A Historic Building Report is submitted with the application. Adjoining houses (Nos. 796 and 798) proposed for demolition to facilitate the development have been assessed as not having particular architectural, artistic, historical or technical interest.
<i>Criteria 10 - To ensure appropriate management and maintenance</i>	An Operational Waste Management Plan is provided with the application. Matters of security and management of public/communal areas could be satisfactorily addressed by condition in the event that the Board grant permission. However I concur with the TPD that the servicing of the proposed development from Howth Road together with a lack of service set-down and drop-off arrangements to facilitate the operation of a development of this scale is likely to lead to generation of excessive servicing activity, drop-offs

	and overspill parking on the adjacent road network causing obstruction and potentially result in a traffic hazard.
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- 7.3.11. Overall, while I consider that the character of the wider area has undergone some level of change and redevelopment as evidenced, inter alia, by the Strand View residential development located c 90 m from the site, the subject site is located at a point on Howth Road where the prevailing character of the area is low density, low rise traditional housing. In my opinion, the proposed development in terms of its height, scale and density would, therefore, be inconsistent with the prevailing character of the immediate area. Buildings of a different height, scale, mass and form could foster a sense of place and character at this location which would be more consistent with the character of the area.
- 7.3.12. The quantum of development proposed which exceeds the recommended density levels of both Table 1 in Appendix 3 of the Dublin City Development Plan 2022-2028 and Table 3.1 of the Sustainable Residential and Compact Settlement Guidelines 2024 constitutes overdevelopment of the site and does not meet the performance criteria as set out within Table 3 of Appendix 3 of the City Development Plan. The proposed development is out of character with the area. Block A is excessively high, with an overly vertical emphasis and would be visually overly dominant in the streetscape. Block B, a 3-5 storey building of significant height, width and massing located in a backland setting, adjoining low rise housing, is problematic in terms of impacts on adjoining housing. In my view, both blocks would seriously injure the residential amenities of the area. Having regard to the foregoing, I recommend that permission is refused for the proposed development.

7.4 **Transportation matters**

- **Servicing**

- 7.4.1 The second refusal reason relates to the absence of service set down and drop off arrangements to facilitate the operation of a development of this scale, located on a heavily trafficked road, which is also both a bus route and active travel route. The planning authority consider that this would lead to the generation of excessive servicing activity, drop-offs and overspill parking causing obstruction to pedestrians, cyclists, bus services and other road users.

- 7.4.2 In terms of the servicing of developments, Section 8.5.5 of the Dublin City Development Plan 2022-2028 notes that there is very limited on-street capacity to meet the servicing requirements of developments as the city intensifies. Section 2.4 of Appendix 5 requires that details of access for emergency vehicles, refuse collections and service vehicles for general servicing needs (i.e. domestic/household deliveries) are adequately demonstrated.
- 7.4.3 I note that vehicular access from Howth Road to the basement car park is proposed for residents. No off-street set-down areas or loading bays are proposed to cater for general servicing needs including deliveries to the proposed development.
- 7.4.4 As outlined in the Transport report prepared by the TPD, Howth Road at this location is a heavily trafficked and busy two-way carriageway with narrow footpaths on either side, and it also forms part of the H Spine of BusConnects. As such, I consider it reasonable and appropriate for the planning authority to seek provision of off-street set down arrangements to facilitate general servicing needs including deliveries to this residential development comprising 57 units.
- 7.4.5 While I acknowledge the appellant's observation that there are developments along the coastal route between Clontarf and Sutton which are serviced directly from Howth Road, I note that the current Dublin City Development Plan 2022-2028 (Section 8.5.5 and Appendix 5) specifically requires effective service management strategies to be developed to minimise the impact on the surrounding road network.
- 7.4.6 In the absence of such details, I recommend that the planning authority's refusal reason relating to this matter is upheld. It has not been demonstrated that the proposed service strategy for the development, which relies on the public road to service the site, would not result in the obstruction of vehicles, pedestrians and other road users.

- **Parking provision**

- 7.4.7 Observers contend that insufficient provision is made for car parking to serve the proposed development. Further, there are concerns that overspill parking from the apartments would impact nearby roads.
- 7.4.8 There are 38 no. car parking spaces at basement level to serve the proposed development, including 2 no. accessible spaces. 2 no. motorcycle spaces are also proposed at this level. More than 50% of the spaces are served by EV charging

stations. The subject site is located within Zone 2 of Map J of the Dublin City Development Plan 2022-2028 which occurs alongside key public transport corridors, where a maximum of 1 car parking space per unit could be permitted.

- 7.4.9 The Transport Report provided in support of the application justifies the proposed level of parking provision referencing the availability of public transport in the area along with the active travel networks in the immediate vicinity and the availability of nearby car sharing services.
- 7.4.10 The site is highly accessible by public transport, and it is located immediately adjacent Dublin bus stops serving routes 6, H2 and H3, which connect Dublin city centre with Howth station, Malahide Village and Howth summit respectively. Kilbarrack Railway Station is located c.1.4km (19 minute walk) from the site while Howth Junction and Donaghmede Railway Station is located c. 1.5 km (20 minute walk) from the site. A designated off-road cycle lane runs along the southern side of the Howth Road.
- 7.4.11 Having regard to the location of the site in an accessible urban location that is well served by public transport, I consider that that the proposed car parking spaces serving the proposed development would be acceptable in this instance. In the unlikely event that overspill car parking becomes problematic, this could potentially be managed by the introduction of restrictive measures along the adjoining Howth Road by the local authority.

- **Sightlines / Other issue**

- 7.4.12 I note an observer's concern that the proposed development would constitute a traffic hazard, when vehicles turning right towards the city centre egress the site. In terms of sightlines at the vehicular entrance, given the straight alignment of Howth Road to the front of the site and the 60 km/h speed limit that applies, I am satisfied that the sightlines provided at the vehicular entrance to the basement car park, as detailed in Drawing No. O1255-015-B (which demonstrates unobstructed sightlines of 65 m in both directions from a 2.4 m setback), complies with the requirements of Sections 4.4.4, 4.4.5 and Table 4.2 of the Design Manual for Urban Roads and Bridges (DMURS) which requires a setback 'X' distance of 2.4 metres and a 'Y' sightline distance distances of 59 metres at entrances in 60km/h urban zones.
- 7.4.13 Separately, I note that an observer has claimed that no transport assessment was submitted with the application. A Transport Study prepared by Coakley Consulting

Engineers is in fact provided and is contained as part of the booklet which includes the Construction Environmental and Demolition Waste Management Plan.

7.5 Impact on Trees and Biodiversity

7.5.1 Observers object to the proposed development on the grounds that existing trees and hedgerows should be retained as a means of providing boundary screening, as well as for biodiversity value. Furthermore, it is contended that the NIA was undertaken in December, a sub-optimal time for this study and also that the height and glazing associated with the proposed development could adversely impact birds and other wildlife at Bull Island. An observer asserts that there are a large number of toads and frogs on the site.

7.5.2 The Preliminary Ecological Assessment (PEA) submitted with the planning application provides details relating to a number of surveys generating as a result of a site walkover in December 2023. These surveys comprise the following:

- A habitat survey to identify rare and protected plant species and invasive species.
- A bat survey, arising from a daytime roosts inspection.
- A bird scoping survey to determine the breeding potential and winter bird potential at the site.
- A mammal survey to identify fauna on the site.

7.5.3 Section 5.2 of the PEA identifies four recommendations, as follows:

- Firstly, the habitat survey undertaken during winter was outside the main flowering period for many plant species; the optimal survey season is during spring and summer months. The report recommends that a follow-up survey is conducted within the main growing season (May to September) to ensure no species is omitted, particularly invasive species.
- Secondly, the walkover survey to identify suitable habitat for breeding birds was undertaken outside the dedicated breeding bird season and therefore a follow-up survey should be conducted within the period April to July in order to accurately determine the importance of the site for breeding birds. Furthermore, there is potential for direct impacts on nesting birds arising from vegetation clearance within the subject lands. As such,

any works involving removal of trees / vegetation should be undertaken outside the nesting season.

- Thirdly, dedicated winter bird flightline surveys should be conducted at the site during the appropriate season given that (a) the proximity of the proposed development to North Bull Island SPA and (b) the proposal involves the construction of a 6 storey building adjacent to the SPA, which may both adversely affect the local assemblage during construction and be a collision risk at operational stage.
- Finally, further bat surveys should be conducted including emergence surveys and transect activity surveys.

7.5.4 It is apparent that survey work to inform the NIS was undertaken at a sub-optimal period during the year and, as such, I concur with the recommendations of the PEA, as summarised above, which confirm that additional surveys within the appropriate periods should be conducted.

7.5.5 The scope of the PEA is limited given that the evaluation and assessment of any identified ecological features on the site is beyond its remit. In my opinion, an Ecological Impact Assessment (EcIA) would be required to, inter alia, identify the potential impacts associated with the proposed development during construction and operational phases, to evaluate the likely significance of effects on ecological features, to apply mitigation measures to avoid, mitigate and compensate for ecological impacts and to highlight potential opportunities for ecological enhancement of the site.

7.5.6 The Tree Survey submitted with the application details the species, crown spread, life stage and condition of trees on the site. The Tree Survey and Constraints Plan (Dwg. Ref. 230215-P-10) details the category of tree quality on-site. The Tree Removals Plan (Dwg. Ref. 230215-P-11) details the trees to be removed. The Landscape Plan (Dwg. Ref. 1614-300-6) indicates proposed planting and landscaping for the site.

7.5.7 Having reviewed the submitted Tree Survey, I note that 30 no. trees are to be felled, including nine Category B trees (mainly sycamore trees) considered to be of moderate quality and value, to facilitate the proposed development. The vast majority of trees proposed for removal stand proximate to the site boundaries and

screen adjoining development. In my view, boundary trees which provide screening should be retained.

- 7.5.8 I acknowledge the case put forward by the observers that the trees and vegetation provide habitats for wildlife. In the absence of surveys undertaken at the appropriate time of the year, as referenced in Sections 7.5.1 to 7.5.4 above, it remains unclear whether any protected species would be impacted by the removal of trees and vegetation identified in the Tree Removal Plan. Clarity on this issue can only be provided when the results of future site surveys are assessed.

7.6 Other issues

- **Flooding – New issue**

- 7.6.1 A Site Specific Flood Risk Assessment (SSFRA) was prepared in respect of the proposed development in accordance with the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).
- 7.6.2 Section 3.1 of the SSFRA notes that the Catchment Flood Risk Assessment and Management Study (CFRAMS) coastal event map (at Figures 4 and 5) demonstrate that the site falls outside of the 0.1% AEP event (i.e. 1 in 1000 year event). Section 3.3.1 of the SSFRA relates to Coastal / Tidal Flood Risk and while noting that the proposed development is outside the 1:1000 year tidal flood event zone (which constitutes a low probability from tidal flooding), the location of the proposed development is in close proximity to the Irish Sea (less than 30 m away), which increases the flood risk. Notwithstanding, the SSFRA notes that the site would be at ± 5.00 AOD and coastal flooding is considered to be a low risk at this location.
- 7.6.3 Fluvial flooding is not anticipated to affect the site given the location of the nearest watercourse (Santry River) approximately 1.5 km to the south-west.
- 7.6.4 Pluvial flooding is noted as moderate. During such events, blockages and system failures are likely to occur from debris and silt build up and will cause surface flooding. Section 4.1 of the SSFRA notes that proper operation and maintenance of the drainage system should be implemented to reduce the risk of such flooding and that overland flow routes should be properly maintained.
- 7.6.5 The SSFRA indicates a moderate risk of groundwater flooding to the proposed basement exists, which extends below groundwater level. Section 5.4 notes that the basement lateral support will have a free draining soil drain at the ground interface to

alleviate the effects of the high groundwater table. Drainage Division advise that further assessment of the shallow groundwater levels within the Marine Beach Deposits is required, that satisfactory proposals for the management of surface water are submitted and that mitigation measures to address the adverse effects on surrounding properties as set out in the Basement Impact Assessment have not been evaluated. There is a deficit of information in relation to these matters and I am not satisfied that it has been satisfactorily demonstrated that the proposed basement would not be prone to flooding by groundwater and that the associated risk of flooding to adjacent properties has been satisfactorily addressed.

7.6.6 The SSFRA determines that the site is located within Flood Zone C as defined by the Guidelines and that while the proposed development constitutes highly vulnerable development, it is appropriate for the subject site. The SSFRA concludes that the proposed development does not increase the risk of flooding to adjacent areas and roads once mitigation measures are implemented.

7.6.7 Having examined the Composite Flood Map included in the Strategic Flood Risk Assessment prepared in support of the Dublin City Development Plan 2022-2028, it is apparent that the subject site is located in Flood Zone C. I am satisfied that the probability of flooding on site is low for fluvial, pluvial and coastal flooding. However, as set out above in Section 7.6.5, it has not been satisfactorily demonstrated that the basement would not be susceptible to groundwater flooding and therefore that the proposed development would not adversely affect adjoining properties in this regard. I recommend that the proposed development be refused on this basis. I note however that this is a new issue, and the Board may wish to seek the views of parties.

- **Unit Mix and storage capacity**

7.6.8 A number of observers consider that the proposed development fails to provide an adequate mix of units to cater for a sufficient range of household types and tenures, with reference made to the lack of 3 bedroom units.

7.6.9 A combination of 17 no. 1 bed 2 person units (30%), 39 no. 2 bed 4 person units (c 68.5%) and 1 no. 2 bed 3 person unit (1.5%) are proposed. This latter unit would be suitable as appropriate accommodation for older people and care assistance.

7.6.10 The range of apartment units proposed are considered to be acceptable and they accord with Section 15.9.1 'Unit Mix' of the Dublin City Development Plan 2022-2028

in addition to SPPR 1 of the Sustainable Urban Housing Design Standards for New Apartments, Guidelines for Planning Authorities, 2023 which provides that developments may include up to 50% one bedroom units and there is no minimum requirement for units with 3 or more bedrooms.

7.6.11 An observer considers that insufficient storage capacity is provided within the proposed apartments. Minimum storage area requirements are set out in Appendix 1 of the Sustainable Urban Housing Design Standards for New Apartments, Guidelines for Planning Authorities, 2023. At least 3 sqm in storage provision is required for one bedroom units, while at least 5 sqm and 6 sqm are required for two bedroom (3 person) units and two bedroom (4 person) units respectively. Upon examination of the submitted Housing Quality Assessment, it is clear that all apartment units either meet or exceed minimum storage requirements.

- **Daylight provision in proposed development**

7.6.12 I note the assertion of an observer stating that many of the proposed apartments fail to meet required Lux levels.

7.6.13 The applicant provided a Daylight and Sunlight Analysis with the application. Section 5.1 of the Analysis relates to daylight provision in the proposed development. An assessment was undertaken in accordance with BRE 209 Site layout planning for daylight and sunlight: a guide to good practice and BS EN17037 National Annex, which provides illuminance recommendations of 100 lux in bedrooms, 150 lux in living rooms and 200 lux in kitchens or LKD (Living/Kitchen/Dining) over 50% of the reference plane for at least half of daylight hours.

7.6.14 Table 3 of the Analysis sets out a summary of the daylight provision results based on BRE Guidelines / BS EN 17037. It notes that 99% of all habitable rooms assessed either meet or exceed BRE criteria. Appendix C of the Analysis provides the schedule of results which identifies the LKDs of ground floor units 38 and 39, located in Block B as failing to meet the criteria.

7.6.15 I consider the 99% compliance rate of the proposed development for daylight provision to be high and it is welcomed. In terms of the two LKD areas which did not comply with the criteria, I note that both units have the benefit of larger terrace areas, which are above the minimum standards in terms of size.

- **Potential future development at adjoining sites**

7.6.16 The owner of No. 800 Howth Road expresses concern that the proposed provision of basement car parking would compromise future development potential of further backland sites including that of No. 800, however no rationale for this contention is provided. I do not consider that the proposed development would compromise the development potential of adjoining lands.

- **Public open space**

7.6.17 Table 15.4 of the Dublin City Development Plan 2022-2028 sets out a minimum requirement of 10% of the site area for residential developments in areas zoned Z1. The Parks Department report considers that the site is too small to provide appropriate open space on the subject site, recommending inclusion of a financial contribution condition in lieu of such provision. While I note an observer objects to this approach, there is provision under Section 15.8.7 of the City Development Plan for the payment of a financial contribution in lieu of open space provision. Given the size of the site and associated constraints, I concur with the position of the Parks Department in this regard. In this case, the payment of a financial contribution in lieu of public open space would facilitate the enhancement / upgrading of St. Anne's Park, in the vicinity of the proposed development.

- **Climate considerations / Material finishes**

7.6.18 An observer questions the carbon and fossil fuel impact of the proposed development and also the material finishes to be used in its construction.

7.6.19 I note the applicant has provided a Demolition Justification Statement in support of the proposal. It considers that neither of the houses on the site are protected, that No. 796 Howth Road is in poor structural condition and would require major interventions to ensure compliance with modern building standards.

7.6.20 A Climate Impact Energy Statement is also provided detailing the sustainable nature of the proposed development in which passive design considerations have played a key role in the design. It is clear that the proposed development would be very efficient, having regard to the projected BER rating of A2 for each apartment unit. In this regard I note that high efficiency air pumps are proposed for heating purposes, while other efficiency measures include significant insulation provision, low-flow water fixtures and fittings, low energy lighting, PV panels and EV charging infrastructure.

- 7.6.21 I note also that planning policy is generally very supportive of higher density residential development on well-connected under-utilised brownfield sites. The subject site is considered appropriately located in an urban area to deliver increased densities, proximate to good public transport services.
- 7.6.22 In my view the use of brick as the primary external finish is appropriate at this location. The brick is of high quality, would be low maintenance and would provide structural integrity along with an appropriate robust façade to the proposed development along Howth Road. While the observer does not suggest alternative finishes which could be used, the use of render may not weather well in this coastal environment.

8.0 Appropriate Assessment – New issue

8.1. Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

- 8.1.1 I have considered the proposed residential development in light of the requirements of S177U of the Planning and Development Act 2000 as amended. A Screening report (and NIS) have been prepared by *Enviroguide* on behalf of the applicant and the objective information presented in the Screening Report informs this screening determination.

8.1.2 Background

- 8.1.3 The applicant submitted an Appropriate Assessment Screening Report for the proposed development to the Planning Authority. 7 no. European sites were examined in the Appropriate Assessment Screening Report. Following this screening exercise, 2 no. European sites were identified on the basis of there being potential for pollution run-off during construction and operational phases from the appeal site to reach North Bull Island SPA (Site Code 004006) and North Dublin Bay SAC (Site Code 000206), via direct hydrological, hydrogeological and air / land pathways owing to the proximity of the development site to these aforementioned European Sites. I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out,

either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

8.1.4 The Appropriate Assessment Screening Report (Section 3.6) notes that no wintering bird surveys were carried out on the site to date and that there is therefore a lack of information on the usage of the site by wintering bird species.

8.1.5 The applicant's Appropriate Assessment Screening Report provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. Having reviewed the document, the information, in the main, allows for an examination and identification of potential significant effects of the development, alone, or in combination with other plans and projects on European Sites. However, I am cognisant that no wintering bird surveys were undertaken on the site, and as such, having regard to the precautionary principle, it is unclear if the site is used by wintering birds which are listed in the Qualifying Interests of North Bull Island SPA.

8.1.6 **Supplementary Reports / Studies**

8.1.7 A Preliminary Ecological Assessment (PEA) was submitted with the application and provides details of surveys generated as a result of a site walkover in December 2023. These include a habitat survey, a bat survey, a bird scoping survey and a mammal survey. Recommendations outlined in the PEA are that the majority of the surveys should be redone in the appropriate periods, that a dedicated winter bird flightline surveys should be conducted at the site during the appropriate season, and that further bat surveys should be conducted including emergence surveys and transect activity surveys. It is apparent that survey work to inform the NIS was undertaken at a sub-optimal period during the year. The scope of the PEA is limited given that the evaluation and assessment of any identified ecological features on the site is beyond its remit.

8.1.8 A Construction Environmental and Demolition Waste Management Plan was submitted with the application. It addresses environmental protection and waste management and sets out mitigation measures. The Plan sets out environmental control measures for re-fuelling and hazardous materials storage; soil excavation; air quality; noise and vibration; and construction traffic management.

8.1.9 A Site Specific Flood Risk Assessment (SSFRA) was submitted with the application. The assessment included detailed site specific hydraulic modelling. Based on the SSFRA the site is estimated to be within Flood Zone C. The site would be at ± 5.00 AOD and coastal flooding is considered to be a low risk at this location. Fluvial floods are not anticipated to affect the site given the location of the nearest river. The risk of groundwater flooding is indicated as moderate in the SSFRA however the planning authority expressed dissatisfaction with the adequacy of submitted information relating to this matter.

8.1.10 Description of the proposed development

It is proposed to construct a residential development on lands that are currently occupied by two houses.

I have provided a detailed description of the development in my report (Section 2) and details of the proposal are provided in the AA screening report and other planning documents provided by the applicant.

In summary the proposed residential development, with a total site area of 3.58 hectares, comprises two apartment blocks (A and B) to accommodate 57 no. units, a basement car park for 38 cars accessed from Howth Road, bicycle parking, and communal open space.

8.1.11 European Sites

Two European sites were identified as being located within a potential zone of influence of the proposed development. North Bull Island SPA (Site Code 004006) and North Dublin Bay SAC (Site Code 000206) are located approximately 18 m south of the proposed development site and are protected by both North Bull Island SPA and North Dublin Bay SAC designations, the boundaries of which lie in very close proximity to the proposed development site.

Table 7.1 – Summary Table of European Sites within a possible zone of influence of the proposed development

European Site (code)	Qualifying Interests / Special Conservation Interests	Distance from proposed development	Potential connections

North Bull Island SPA (004006)	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] 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]	18 metres	Potential hydrological, hydrogeological and air / land pathways identified due to proximity of site to this European Site
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	Wetland and Waterbirds [A999] North Bull Island SPA National Parks & Wildlife Service		
North Dublin Bay SAC (000206)	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 (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395] North Dublin Bay SAC National Parks & Wildlife Service	18 metres	Potential hydrological, hydrogeological and air / land pathways identified due to proximity of site to this European Site

I note that the development site is not located within any European Site.

Hydrological, hydrogeological and air / land pathways are identified due to proximity of the development site to European Sites.

Section 4.2.2.2 of the Appropriate Assessment Screening Report has considered disruptions to migratory pathways given the proximity of the site to North Bull Island SPA (Site Code 004006) and North Dublin Bay SAC (Site Code 000206). It is noted that tall structures including tall buildings can lead to fatal collisions with commuting bird species, particularly 'poor' fliers with relatively low maneuverability including water species and waterfowl. The applicant considers that having regard to the height of the proposed apartment blocks, the nature of their location, their design characteristics, including the breaking up of facades, that birds, including any 'at risk' species, do not have the potential to be impacted by the proposed development in terms of collisions and the risk is therefore imperceptible in the absence of any mitigation.

8.1.12 Likely impacts of the project

Due to the nature and proximity of the proposed development to North Bull Island SPA (Site Code 004006) and North Dublin Bay SAC (Site Code 000206), impacts generated by the construction and operation of the residential development require consideration.

The applicant has applied the source-pathway-receptor model in determining possible impacts and effects of the proposed development.

8.1.13 Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues set out on the Appropriate Assessment Screening Report are considered for examination in terms of the implications for likely significant effects on European sites:

- Uncontrolled releases of silt, sediments and / or other pollutants to air due to earthworks.
- Surface water run-off containing silt, sediments and / or pollutants into nearby waterbody or surface water network.
- Surface water run-off containing silt, sediments and / or pollutants into local groundwater.

- Waste generation during construction phase comprising soils and construction wastes.
- Increased human disturbance at the development site, at both construction and operational phases.
- Increased lighting in the vicinity during construction and operational phases.
- Flightline / collision risk with bird species which may be using the area / migrating through.
- Dust and noise impact transferable via air and land pathways.

I consider that a further issue for examination is as follows:

- Should any bird species, which are Special Conservation Interests (SCI) of North Bull Island SPA (Site Code 004006), or another European site, use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

8.1.14 **Likely significant effects on the European sites in view of the conservation objectives**

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in the following impacts:

- Potential disturbances to the QIs of the SPA, which could be associated with increased noise, additional lighting, and increased human activity at both construction and post construction phases.
- Potential damage to habitats associated with inadvertent spillages of hydrocarbons and/or other chemicals during construction phase.
- During groundworks / construction, potential for accidental discharges to migrate vertically downwards to bedrock aquifer. It is likely that the groundwater discharges towards Dublin Bay. Groundwater vulnerability beneath the site is classified as low. The potential for water quality impacts arising from the proposed development cannot be ruled out.
- Potential for water quality impacts, disturbance / displacement of species, habitat loss / alteration, habitat / species fragmentation cannot be ruled out.

- Changes in the population density associated with the North Bull Island SPA cannot be ruled out.
- Potential damage to the North Bull Island SPA and North Dublin Bay SAC associated with escapement of silt to the estuary during the construction phase; with many of the habitats and qualifying interest species dependent on water quality, an impact of sufficient magnitude could undermine the conservation objectives for these sites.
- Potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

8.1.15 I concur with the applicants' findings that such impacts could be significant in terms of the stated conservation objectives of the SAC and SPA in relation to pollution related pressures and disturbance on qualifying interest habitats and species.

8.1.16 **Overall Conclusion**

Screening determination

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on the North Bull Island SPA (Site Code 004006) and North Dublin Bay SAC (Site Code 000206), in view of the conservation objectives of a number of qualifying interest features of those sites. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

8.2 **Stage 2 – Appropriate Assessment**

8.2.1. **Article 6(3)**

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

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- The Natura Impact Statement and associated documents.

- Appropriate assessment of implications of the proposed development on the integrity of each European site.

8.2.2 Compliance with Article 6(3) of the EU Habitats Directive

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 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).

8.2.3 Screening the need for Appropriate Assessment

Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in-combination with other plans or projects, will not have a significant effect on the following European Sites:

- North Dublin Bay SAC (Site Code: 000206)
- North Bull Island SPA (Site Code: 004006)

The possibility of significant effects on other European sites has been excluded on the basis of objective information and noting that there is no possible ecological connection or pathway between the appeal site and other Natura 2000 sites surrounding the proposed development. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

8.2.4 The Natura Impact Statement (NIS)

A NIS, prepared by Enviroguide, examines and assesses potential adverse effects of the proposed development on North Dublin Bay SAC (000206) and North Bull Island SPA (004006). The NIS identifies the main potential impact from the proposed development on North Dublin Bay SAC (000206) and North Bull Island SPA (004006) as being the potential for water quality deterioration during the construction

phase. No potential for operational effects on account of installation of Sustainable Drainage Systems (SuDS) preventing surface water run-off. It is also noted that all foul drainage and surface water drainage would be connected to the existing networks. In relation to North Dublin Bay SAC a further potential adverse effect noted is the potential for dust during the construction phase to impact QI habitats. In terms of North Bull Island SPA, further potential adverse effects identified are disturbance to species and displacement of species during construction and operation stages on account of noise and visual disturbance. While light related disturbance is also identified as a potential adverse impact on North Bull Island SPA, the NIS considers this would be unlikely to cause significant impacts on SCI birds having regard to limited light spill from the proposed development on this habitat. The final potential adverse impact given for North Bull Island SPA is the potential for ex-situ habitat loss. However, the NIS considers the site does not provide suitable ex-situ habitat for SCI species of the nearby SPA. The NIS includes an examination of relatively recent planning applications where permission has been granted in the vicinity of the appeal site and also of plans. The NIS notes that there is no potential for the proposed development to contribute to any cumulative adverse effects on any of the aforementioned European Sites when considered in combination with other plans or projects.

8.2.5 The NIS refers to avoidance and mitigation measures which will be adhered to. Mitigation measures 1 to 5 inclusive relate to the construction phase, while Mitigation 6 relates to the operational phase.

8.2.6 Measures to avoid impacts on water quality (**Mitigation 1**) are proposed for the construction phase of the proposed development and are set out in Section 4.5.3.1 of the NIS and are summarized as follows:

- Implementation of construction phase best practice mechanisms.
- Personnel to be trained in implementation of environmental control and emergency procedures.
- Implementation of standard best practice measures to ensure no construction related pollutants are discharged into the surface water or groundwater at and surrounding the site.
- Installation of a petrol receptor upstream of the attenuation tank.
- Maintenance of plant and machinery
- Construct buildings and roads above flood level

- Car parking and refueling areas located on substrate underlain with impermeable layer to prevent leakage to groundwater
- Regularly sweep roads to remove mud and aggregate materials.
- Appropriate bunding, storage and signage for all deleterious substances.
- Appropriate storage and use of fuels, oils, and chemicals.
- Contaminated soil from any spillages or leaks will be removed
- Implementation of robust spill response plan and site environmental emergency plan.
- Register to be kept of all hazardous used on the site / expected to be present.
- Decommission / divert and manage any drains or sewers associated with the site.

Mitigation 2 relates to the implementation of a range of measures to reduce dust related impacts. These are set out in Section 4.5.3.2 of the NIS.

Mitigation 3 relates to noise reduction measures including monitoring typical noise levels during critical periods and at sensitive locations. These measures are set out in Section 4.5.3.3 of the NIS.

Mitigation 4 relates to construction phase lighting mitigation measures including the use of directional lighting to minimise light spill from the site and the use of specific LED luminaires. These measures are set out in Section 4.5.3.4 of the NIS.

Mitigation 5 relates to maximum working hours / hours of operation during the construction phase. These are set out in Section 4.5.3.5 of the NIS.

Mitigation 6 relates to lighting during the operational phase and details are set out in Section 4.5.4.1 of the NIS. In summary the following measures are proposed:

- Lighting and layout of proposed development to be designed to minimise light-spill onto habitats used by local bats foraging or commuting.
- Lights have been designed and selected with specific shutters and filters to minimise light spill into sensitive locations while still providing lighting of pedestrian routes.

- Lighting along riparian corridor, tree lines, hedgerows, and woodland margins to be avoided.
- Lighting controls and dimming to be utilised for post-curfew times.
- Strong UV lighting avoided to minimise bat disturbance

In relation to ex-situ disturbance and displacement impacts to birds, the NIS notes that the development site does not provide suitable ex-situ habitat for SCI species of the North Bull Island SPA. As such, no mitigation measures are proposed to address ex-situ disturbance and displacement impacts to birds.

8.2.7 The NIS concludes that with the implementation of the avoidance and mitigation measures, the proposed development will not have an adverse effect on the integrity of the North Dublin Bay SAC (000206) and North Bull Island SPA (004006) individually or in combination with other plans and projects.

8.2.8 Having reviewed the documents, submissions, and consultations, I am satisfied that the information allows for an assessment of adverse effects of the development on the conservation objectives of the following European sites alone, or in combination with other plans and projects:

- North Dublin Bay SAC (000206)
- North Bull Island SPA (004006)

However, I note that no wintering bird surveys were carried out at the site and, as such, there is an absence of information on the usage of this site by wintering bird species.

8.2.9 **Appropriate Assessment of implications of the proposed development**

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

8.2.10 The following sites are subject to Appropriate Assessment:

- North Dublin Bay SAC (000206)
- North Bull Island SPA (004006)

A description of the sites and their Qualifying Interests and Special Conservation Interests are set out in Table 7.1 of this report. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie).

8.2.11 The main aspects of the proposed development that could adversely affect the conservation objectives of the European Sites include;

- Uncontrolled releases of silt, sediments and / or other pollutants to air due to earthworks.
- Surface water run-off containing silt, sediments and / or pollutants into nearby waterbody or surface water network.
- Surface water run-off containing silt, sediments and / or pollutants into local groundwater.
- Waste generation during construction phase comprising soils and construction wastes.
- Increased human disturbance at the development site, at both construction and operational phases.
- Increased lighting in the vicinity during construction and operational phases.
- Flightline / collision risk with bird species which may be using the area / migrating through.
- Dust and noise impact transferable via air and land pathways.

8.2.12 **Assessment of proposed mitigation measures**

The NIS outlines a number of mitigation measures. The mitigation measures are intended to avoid the release of contaminated run-off to from the site to groundwater and surface water, to reduce dust related impacts, to reduce noise impacts, to reduce impacts of lighting during both construction and operational phases and to limit hours of construction. I am satisfied that the mitigation measures set out in the NIS are sufficient to address the aforementioned potential impacts.

The NIS considers that the proposed development site does not provide suitable ex-situ habitat for SCI species of the North Bull Island SPA (Site Code 004006). The subject site comprises, inter alia, amenity grassland, hedgerow, dry meadows, and grassy verges. As such, no mitigation measures are proposed to address ex-situ disturbance and displacement impacts to birds associated with North Bull Island

SPA. However, I note the submitted Preliminary Ecological Assessment (PEA) recommends that several targeted surveys be undertaken in respect of the subject site, including wintering bird surveys. Furthermore, both the Appropriate Assessment Screening Report and the NIS advise that no wintering bird surveys have been conducted on the site to date and, as such, 'there is a lack of information on the usage of this site by wintering bird species.' I concur with this statement. Should any bird species, which are Special Conservation Interests (SCI) of North Bull Island SPA (Site Code 004006), or another European site, use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts). In the absence of wintering bird surveys for this site, noting the very close proximity of the site to the North Bull Island SPA and having regard to the precautionary principle, I am not therefore satisfied that the proposed development would not have the potential to result in habitat fragmentation and disturbance to the QIs / SCI's of North Bull Island SPA (Site Code 004006).

8.2.13 Integrity test

Following the appropriate assessment, the consideration of mitigation measures, and the absence of wintering bird surveys I am not able to ascertain with confidence that the project would not adversely result in habitat fragmentation and disturbance to bird species which are QIs of North Bull Island SPA. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

8.2.14 Appropriate Assessment Conclusion

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. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have significant effects on North Dublin Bay SAC (000206) and North Bull Island SPA (004006). Consequently, an Appropriate Assessment was required of the implications of the project on the Qualifying Interests of these sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects could

adversely result in habitat fragmentation and disturbance to bird species which are QIs / SCI's of North Bull Island SPA. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of North Dublin Bay SAC (000206) and North Bull Island SPA (004006).
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.

I consider that there remains a reasonable scientific doubt as to the absence of adverse effects on the integrity of on North Dublin Bay SAC (000206) and North Bull Island SPA (004006) and as such the Board is precluded from granting permission for the proposed development. I note however that this is a new issue, and the Board may wish to seek the views of parties.

9.0 Recommendation

I recommend that the permission is refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the height, scale and density of development, it is considered that the proposed development would constitute overdevelopment of the site, would have an unreasonable overbearing and visually dominant effect on adjoining sites and would seriously injure the residential amenities of the area by way of undue overlooking and overshadowing impacts. The proposed development fails to integrate with the streetscape and public realm along this stretch of Howth Road and as a result, would seriously injure the visual amenities of the streetscape, would have an adverse impact on the character of the area and is therefore contrary to Policy SC17 and Section 15.5.2 of the Dublin City Development Plan 2022-2028. The proposed development would, therefore, by the precedent it would set for other development, would seriously injure the amenities of property in the vicinity, would be contrary to the provisions of the development plan in this regard and

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

2. The development is located on a heavily trafficked road which is a Bus Connects route, in an area where there is a lack of on-street carparking and set down availability. The proposed service set down and drop-off arrangements from Howth Road to facilitate the operation of the proposed development are considered inappropriate having regard to the intensity of the development proposed on the site. As a result, it is considered that the proposed development would generate excessive drop-offs, servicing activity and overspill parking along this part of Howth Road and adjoining footpaths thereby causing obstructions for pedestrians, bus services and other road users resulting in traffic safety hazard. The development is considered contrary to Section 8.5.5 and Section 2.4 of Appendix 5 of the Dublin City Development Plan 2022-2028. The development would, therefore, set an undesirable precedent for similar developments in the area and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the absence of wintering birds surveys in respect of the proposed development site, the Board, having regard to the very close proximity of the site relative to the North Bull Island SPA (Site Code: 004006) and the precautionary principle, cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to result in adverse impacts in habitat fragmentation and disturbance to bird species which are Qualifying Interests of North Bull Island SPA, thereby negatively affecting the conservation objectives of this European Site. In such circumstances, the Board is precluded from granting permission. (New issue).
4. It has not been demonstrated to the satisfaction of the Board that the proposed basement would not be susceptible to groundwater flooding and give rise to an increased risk of flooding to properties in the vicinity. The

proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.(New issue).

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.

John Duffy

Planning Inspector

30th January 2025

Appendix 1

Form 1 - EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319522-24		
Proposed Development Summary	Demolition of 2 houses and outbuildings and construction of 57 no. apartments in 2 no. blocks ranging in height from 3 to 6 storey's above single basement, all associated excavation and development site works.		
Development Address	796 – 798 Howth Road, Dublin 5.		
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)?			
Yes	X	Schedule 5, Part 2, Class 10(b)(ii) construction of more than 500 dwelling units.	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Schedule 5, Part 2, Class 10(b)(ii) construction of more than 500 dwelling units.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			

No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-319522-24
Proposed Development Summary	Demolition of 2 houses and outbuildings and construction of 57 no. apartments in 2 no. blocks ranging in height from 3 to 6 storey's above single basement, all associated excavation and development site works.
Development Address	796- 798 Howth Road, Dublin 5
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.	
Characteristics of proposed development	The proposed development is seeking permission for the demolition of 2 no. dwellings, the construction of 2 no. apartment blocks (Block A and Block B) which will provide for 57 no. apartment units. The development would not result in the production of significant waste, emissions, or pollutants
Location of development	The subject site is located proximate to the coast and c 18 m from the following European Sites: North Bull Island SPA and North Dublin Bay SAC. The site accommodates two existing houses, one of which is not inhabited. The lands are zoned Z1 'Sustainable Residential Neighbourhood.' There are no sites in the immediate vicinity of archaeological significance.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	There are no other locally sensitive environmental sensitivities in the vicinity of relevance. There would be no significant cumulative considerations.
Conclusion	

Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	NO
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	NO
There is a real likelihood of significant effects on the environment.	EIAR required.	NO

Inspector: _____

Date: _____

Appendix 3

AA Screening Determination

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the demolition of 2 houses and outbuildings and construction of 57 no. apartments in 2 no. blocks ranging in height from 3 to 6 storey's above single basement, all associated excavation and development site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is located approximately 18 metres north of North Dublin Bay SAC (000206) and North Bull Island SPA (004006).

The site is located on the northern side of Howth Road (R105) which is characterised by detached houses on relatively large individual plots. The southern side of Howth Road opposite the proposed development site, beyond the low rise stone wall, comprises a continuous pedestrian and cycle path to Bull Island, which is located to the south of the proposed development.

Adjoining sites at Nos. 794 and 800 Howth Road to the south west and north east, respectively, accommodate two storey dwellings and their associated gardens. The rear gardens associated with predominantly single storey / dormer bungalows at St. Margaret's Avenue adjoin the site to the rear.

The site is located within Flood Zone C as per the SSFRA.

Step 2: Potential impact mechanisms from the project

The applicant has applied the source-pathway-receptor model in determining possible impacts from the proposed development and identified potential hydrological, hydrogeological and air / land pathways to North Dublin Bay SAC (000206) and North Bull Island SPA (004006) due to proximity of development site to these European Sites.

- Uncontrolled releases of silt, sediments and / or other pollutants to air due to earthworks.
- Surface water run-off containing silt, sediments and / or pollutants into nearby waterbody or surface water network.
- Surface water run-off containing silt, sediments and / or pollutants into local groundwater.

- Waste generation during construction phase comprising soils and construction wastes.
- Increased human disturbance at the development site, at both construction and operational phases.
- Increased lighting in the vicinity during construction and operational phases.
- Flightline / collision risk with bird species which may be using the area / migrating through.
- Dust and noise impact transferable via air and land pathways.

I consider that a further issue for examination is as follows:

- Should any bird species, which are Special Conservation Interests (SCI) of North Bull Island SPA (Site Code 004006), or another European site, use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in the following impacts:

- Potential disturbances to the QIs of the SPA, which could be associated with increased noise, additional lighting, and increased human activity at both construction and post construction phases.
- Potential damage to habitats associated with inadvertent spillages of hydrocarbons and/or other chemicals during construction phase.
- During groundworks / construction, potential for accidental discharges to migrate vertically downwards to bedrock aquifer. It is likely that the groundwater discharges towards Dublin Bay. Groundwater vulnerability beneath the site is classified as low. The potential for water quality impacts arising from the proposed development cannot be ruled out.
- Potential for water quality impacts, disturbance / displacement of species, habitat loss / alteration, habitat / species fragmentation cannot be ruled out.
- Changes in the population density associated with the North Bull Island SPA cannot be ruled out.
- Potential damage to the North Bull Island SPA and North Dublin Bay SAC associated with escapement of silt to the estuary during the construction phase; with many of the habitats and qualifying interest species dependent on water quality, an impact of sufficient magnitude could undermine the conservation objectives for these sites.
- Potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

Step 3: European Sites at risk

Potential hydrological, hydrogeological and air / land pathways are identified due to close proximity of the development site to North Bull Island SPA and North Dublin Bay SAC.

Table 1 European Sites at risk from impacts of the proposed project
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Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Deterioration of water quality, siltation via surface water, construction related pollutants during construction phase Disturbance to species and displacement of species during construction and operation stages on account of noise and visual disturbance.	Potential hydrological, hydrogeological and air / land pathways	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] 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]
Deterioration of water quality, siltation via surface water, construction related pollutants during construction phase	Potential hydrological, hydrogeological and air / land pathways	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 maritimae</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] Petalophyllum ralfsii (Petalwort) [1395]
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7 no. European Sites were examined in the Appropriate Assessment Screening Report. Following this screening exercise, 2 no. European sites were identified on the basis of there being potential for pollution run-off during construction and operational phases from the appeal site to reach North Bull Island SPA (Site Code 004006) and North Dublin Bay SAC (Site Code 000206), via direct hydrological, hydrogeological and air / land pathways owing to the proximity of the development site to these aforementioned European Sites. I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

North Bull Island SPA (Site Code 004006) – Site Synopsis

This site covers all of the inner part of north Dublin Bay, with the seaward boundary extending from the Bull Wall lighthouse across to Drumleck Point at Howth Head. The North Bull Island sand spit is a relatively recent depositional feature, formed as a result of improvements to Dublin Port during the 18th and 19th centuries. It is almost 5 km long and 1 km wide and runs parallel to the coast between Clontarf and Sutton. Part of the interior of the island has been converted to golf courses.

Saltmarsh extends along the length of the landward side of the island and provides the main roost site for wintering birds in Dublin Bay. The island shelters two intertidal lagoons which are divided by a solid causeway. These lagoons provide the main feeding grounds for the wintering waterfowl. The sediments of the lagoons are mainly sands with a small and varying mixture of silt and clay. Green algal mats (*Ulva* spp.) are a feature of the flats during summer. These sediments have a rich macro-invertebrate fauna, with high densities of Lugworm (*Arenicola marina*) and Ragworm (*Hediste diversicolor*).

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Light-bellied Brent Goose, Shelduck, Teal, Pintail, Shoveler, Oystercatcher, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Turnstone and Black-headed Gull. The site is also of special conservation interest for holding an

assemblage of over 20,000 wintering waterbirds. The E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds.

The North Bull Island SPA is of international importance for waterfowl on the basis that it regularly supports in excess of 20,000 waterfowl. The site supports internationally important populations of three species, Light-bellied Brent Goose (1,548), Black-tailed Godwit (367) and Bar-tailed Godwit (1,529) - all figures are mean peaks for the five winters between 1995/96 and 1999/2000. The site is one of the most important in the country for Light-bellied Brent Goose. A further 14 species have populations of national importance – Shelduck (1,259), Teal (953), Pintail (233), Shoveler (141), Oystercatcher (1,784), Grey Plover (517), Golden Plover (2,033), Knot (2,837), Sanderling (141), Dunlin (4,146), Curlew (937), Redshank (1,431), Turnstone (157) and Black-headed Gull (2,196). The populations of Pintail and Knot are of particular note as they comprise 14% and 10% respectively of the all-Ireland population totals. Other species that occur regularly in winter include Grey Heron, Little Egret, Cormorant, Wigeon, Goldeneye, Red-breasted Merganser, Ringed Plover and Greenshank. Gulls are a feature of the site during winter and, along with the nationally important population of Black-headed Gull (2,196), other species that occur include Common Gull (332) and Herring Gull (331). While some of the birds also frequent South Dublin Bay and the River Tolka Estuary for feeding and/or roosting purposes, the majority remain within the site for much of the winter. The wintering bird populations have been monitored more or less continuously since the late 1960s and the site is now surveyed each winter as part of the larger Dublin Bay complex.

The North Bull Island SPA is a regular site for passage waders, especially Ruff, Curlew Sandpiper and Spotted Redshank. These are mostly observed in single figures in autumn but occasionally in spring or winter.

The site formerly had an important colony of Little Tern but breeding has not occurred in recent years. Several pairs of Ringed Plover breed, along with Shelduck in some years. Breeding passerines include Skylark, Meadow Pipit, Stonechat and Reed Bunting. The island is a regular wintering site for Short-eared Owl, with up to 5 present in some winters.

The North Bull Island SPA is an excellent example of an estuarine complex and is one of the top sites in Ireland for wintering waterfowl. It is of international importance on account of both the total number of waterfowl and the individual populations of Light-bellied Brent Goose, Black-tailed Godwit and Bar-tailed Godwit that use it. Also of significance is the regular presence of several species that are listed on Annex I of the E.U. Birds Directive, notably Golden Plover and Bar-tailed Godwit, but also Ruff and Short-eared Owl. North Bull Island is a Ramsar Convention site, and part of the North Bull Island SPA is a Statutory Nature Reserve and a Wildfowl Sanctuary.

North Dublin Bay SAC (Site Code 000206) – Site Synopsis

This site covers the inner part of north Dublin Bay, the seaward boundary extending from the Bull Wall lighthouse across to the Martello Tower at Howth Head. The North Bull Island is the focal point of this site.

North Bull Island is a sandy spit which formed after the building of the South Wall and Bull Wall in the 18th and 19th centuries. It now extends for about 5 km in length and is up to 1 km wide in places. A well-developed and dynamic dune system stretches along the seaward side of the island. Various types of dunes occur, from fixed dune grassland to pioneer communities on foredunes. Marram Grass (*Ammophila arenaria*) is dominant on the outer dune ridges, with Lyme-grass (*Leymus arenarius*) and Sand Couch (*Elymus farctus*) on the foredunes. Behind the first dune ridge, plant diversity increases with the appearance of such species as Wild Pansy (*Viola tricolor*), Kidney Vetch (*Anthyllis vulneraria*), Common Bird's-foot-trefoil (*Lotus corniculatus*), Common Restharrow (*Ononis repens*), Yellow-rattle (*Rhinanthus minor*) and Pyramidal Orchid (*Anacamptis pyramidalis*). In these grassy areas and slacks, the scarce Bee Orchid (*Ophrys apifera*) occurs.

About 1 km from the tip of the island, a large dune slack with a rich flora occurs, usually referred to as the 'Alder Marsh' because of the presence of Alder trees (*Alnus glutinosa*). The water table is very near the surface and is only slightly brackish. Saltmarsh Rush (*Juncus maritimus*) is the dominant species, with Meadowsweet (*Filipendula ulmaria*) and Devil's-bit Scabious (*Succisa pratensis*) being frequent. The orchid flora is notable and includes Marsh Helleborine (*Epipactis palustris*), Common Version date: 12.08.2013 2 of 3 000206_Rev13.Doc Twayblade (*Listera ovata*), Autumn Lady's-tresses (*Spiranthes spiralis*) and Marsh Orchids (*Dactylorhiza* spp.).

Saltmarsh extends along the length of the landward side of the island. The edge of the marsh is marked by an eroding edge which varies from 20 cm to 60 cm high. The marsh can be zoned into different levels according to the vegetation types present. On the lower marsh, Glasswort (*Salicornia europaea*), Common Saltmarsh-grass (*Puccinellia maritima*), Annual Sea-blite (*Suaeda maritima*) and Greater Sea-spurrey (*Spergularia media*) are the main species. Higher up in the middle marsh Sea Plantain (*Plantago maritima*), Sea Aster (*Aster tripolium*), Sea Arrowgrass (*Triglochin maritima*) and Thrift (*Armeria maritima*) appear. Above the mark of the normal high tide, species such as Common Scurvygrass (*Cochlearia officinalis*) and Sea Milkwort (*Glaux maritima*) are found, while on the extreme upper marsh, the rushes *Juncus maritimus* and *J. gerardi* are dominant. Towards the tip of the island, the saltmarsh grades naturally into fixed dune vegetation.

The habitat 'annual vegetation of drift lines' is found in places, along the length of Dollymount Strand, with species such as Sea Rocket (*Cakile maritima*), Oraches (*Atriplex* spp.) and Prickly Saltwort (*Salsola kali*).

The island shelters two intertidal lagoons which are divided by a solid causeway. The sediments of the lagoons are mainly sands with a small and varying mixture of silt and clay. The north lagoon has an area known as the "Salicornia flat", which is dominated by *Salicornia dolichostachya*, a pioneer glasswort species, and covers about 25 ha. Beaked Tasselweed (*Ruppia maritima*) occurs in this area, along with some Narrow-leaved Eelgrass (*Zostera angustifolia*). Dwarf Eelgrass (*Z. noltii*) also occurs in Sutton Creek. Common Cordgrass (*Spartina anglica*) occurs in places but its growth is controlled by management. Green algal mats (*Enteromorpha* spp., *Ulva lactuca*) cover large areas of the flats during summer. These sediments have a rich macrofauna, with high densities of Lugworms (*Arenicola marina*) in parts of the north lagoon. Mussels (*Mytilus edulis*) occur in places, along with bivalves such as *Cerastoderma edule*, *Macoma balthica* and *Scrobicularia plana*. The small gastropod *Hydrobia ulvae* occurs in high densities in places, while the crustaceans *Corophium volutator* and *Carcinus maenas* are common. The sediments on the seaward side of North Bull Island are mostly sands. The site extends below the low spring tide mark to include an area of the sublittoral zone.

Three rare plant species which are legally protected under the Flora (Protection) Order, 1999 have been recorded on the North Bull Island. These are Lesser Centaury (*Centaureum pulchellum*), Red Hemp-nettle (*Galeopsis angustifolia*) and Meadow Saxifrage (*Saxifraga granulata*). Two further species listed as threatened in the Red Data Book, Wild Clary/Sage (*Salvia verbenaca*) and Spring Vetch (*Vicia lathyroides*), have also been recorded. A rare liverwort, *Petalophyllum ralfsii*, was first recorded from the North Bull Island in 1874 and has recently been confirmed as still present. This species is of high conservation value as it is listed on Annex II of the E.U. Habitats Directive. The North Bull is the only known extant site for the species in Ireland away from the western seaboard.

North Dublin Bay is of international importance for waterfowl. During the 1994/95 to 1996/97 period the following species occurred in internationally important numbers (figures are average maxima): Brent Goose 2,333; Knot 4,423; Bar-tailed Godwit 1,586. A further 14 species occurred in nationally important concentrations - Shelduck 1505; Wigeon 1,166; Teal 1,512; Pintail 334; Shoveler 239; Oystercatcher 2,190; Ringed Plover 346; Grey Plover 816; Sanderling 357; Dunlin 6,238; Black-tailed Godwit 156; Curlew 1,193; Turnstone 197 and Redshank 1,175. Some of these species frequent South Dublin Bay and the River Tolka Estuary for feeding and/or roosting purposes (mostly Brent Goose, Oystercatcher, Ringed Plover, Sanderling and Dunlin).

The tip of the North Bull Island is a traditional nesting site for Little Tern. A high total of 88 pairs nested in 1987. However, nesting attempts have not been successful since the early 1990s. Ringed Plover, Shelduck, Mallard, Skylark, Meadow Pipit and Stonechat also nest. A well-known population of Irish Hare is resident on the island.

The invertebrates of the North Bull Island have been studied and the island has been shown to contain at least seven species of regional or national importance in Ireland (from the Orders Diptera, Hymenoptera and Hemiptera).

The main land uses of this site are amenity activities and nature conservation. The North Bull Island is the main recreational beach in Co. Dublin and is used throughout the year. Much of the land surface of the island is taken up by two golf courses. Two separate Statutory Nature Reserves cover much of the island east of the Bull Wall and the surrounding intertidal flats. The site is used regularly for educational purposes. North Bull Island has been designated a Special Protection Area under the E.U. Birds Directive and it is also a statutory Wildfowl Sanctuary, a Ramsar Convention site, a Biogenetic Reserve, a Biosphere Reserve and a Special Area Amenity Order site.

This site is an excellent example of a coastal site with all the main habitats represented. The site holds good examples of nine habitats that are listed on Annex I of the E.U. Habitats Directive; one of these is listed with priority status. Several of the wintering bird species have populations of international importance, while some of the invertebrates are of national importance. The site contains a numbers of rare and scarce plants including some which are legally protected. Its proximity to the capital city makes North Dublin Bay an excellent site for educational studies and research.

Step 4: Likely significant effects on the European site(s)

The proposed development has the potential to result in the following significant effects:

- Potential disturbances to the QIs of the SPA, which could be associated with increased noise, additional lighting, and increased human activity at both construction and post construction phases.
- Potential damage to habitats associated with inadvertent spillages of hydrocarbons and/or other chemicals during construction phase.
- During groundworks / construction, potential for accidental discharges to migrate vertically downwards to bedrock aquifer. It is likely that the groundwater discharges towards Dublin Bay. Groundwater vulnerability beneath the site is classified as low. The potential for water quality impacts arising from the proposed development cannot be ruled out.
- Potential for water quality impacts, disturbance / displacement of species, habitat loss / alteration, habitat / species fragmentation cannot be ruled out.
- Changes in the population density associated with the North Bull Island SPA cannot be ruled out.
- Potential damage to the North Bull Island SPA and North Dublin Bay SAC associated with escapement of silt to the estuary during the construction phase; with many of the habitats and qualifying interest species dependent

on water quality, an impact of sufficient magnitude could undermine the conservation objectives for these sites.

- Potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

Overall Conclusion- Screening Determination

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development could result in significant effects on the North Bull Island SPA (Site Code 004006) and North Dublin Bay SAC (Site Code 000206), in view of the conservation objectives of a number of qualifying interest features of those sites. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

Inspector: _____

Date: _____