

An
Bord
Pleanála

Inspector's Report

ABP-322008-25

Development

Construction of 71 residential units in 4 blocks ranging 2-4 storeys in height with 1 community facility and all associated site works.

Location

Congress Avenue, Lagavooren
Townland, Drogheda, Co. Louth

Planning Authority

Louth County Council

Planning Authority Reg. Ref.

2460772

Applicant(s)

Maybeck Limited

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Maybeck Limited

Observer(s)

1. Dolores and Pat Brannigan
2. Donal Walsh
3. ABACAS Special School

Date of Site Inspection

16th May 2025

Inspector

Emma Gosnell

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1.0 Site Location and Description

- 1.1. The appeal site, with a stated area of c. 1.135 hectares, is located off Congress Avenue in the southern environs of Drogheda town, Lagavooren, Co. Louth. The site is currently accessed from Congress Avenue to the east.
- 1.2. The site is adjoined to the north by the An Cairéal apartments and single storey commercial properties which front Donore Road; to the south and south-east by 2-storey houses fronting Marian Park and Congress Avenue; and, to the west by the Cherrybrook Drive residential estate, whose 2 no. internal access roads terminate at the boundary shared with the site. The Watery Hill Steps (pedestrian route) which connect Congress Avenue with Donore Road (to the south) run along the site's north-east boundary and are entered adjacent to its access off Congress Avenue. This 2-way road is relatively narrow and varies in width between c. 5-6m with uncontrolled parking and narrow pedestrian pathways.
- 1.3. The site is L-shaped in the main, relatively flat and located on an elevated plateau (relative to the lands to the north which are situated at a much lower level). It is accessed off Congress Avenue to the east with this access being splayed on its south side adjoining the dwelling at No. 46 Congress Avenue and flush on its north side where it directly borders the access point to the Watery Hill public steps. The site is enclosed by metal fencing and bordered by vegetation on its east side and there is an electricity pole and line running into the side on its south-east side. The northernmost portion of the site features overgrown spoil heaps/ earthen mounds and disused construction materials with double fencing reinforcing the northern boundary. The fenced-off southern portion of the site is given over primarily to grassland interspersed with trees, and bands of scrub grass and hedging with evidence of dumping/ fly tipping and its boundary with the properties on Congress Avenue and Marian Park is mainly composed of block built walls of various heights. On its western side the site is separated from the Cherrybrook Drive estate a block wall lined with trees and mature hedging.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 71 no. residential units at Congress Avenue, Lagavooren Townland, Drogheda, Co. Louth and includes:

- Block A - 2-4-storey apartment block (3,006 sqm -31 no. units) of 12 no. 1-bed and 19 no. 2-bed units.
- Block B - 3 storey duplex units (1,475 sqm - 14 no. units) of 7 no. 1-bed units and 7 no. 3-bed units.
- Block C - 3- to 4-storey apartment block (1,740 sqm - 23 no. units) of 17 no. 1-bed units and 6 no. 2-bed units.
- Block D - a terrace of 3 no. 1-bed single-storey houses (176 sqm).
- 1 no. community facility (circa 34 sqm).
- 37 no. car parking spaces including accessible parking; 164 no. secure bicycle parking spaces; public open space totalling 1,721 sqm; communal open space totalling 836 sqm; private garden/ amenity areas; all associated hard and soft landscaping, play areas, boundary treatments, roads, footpaths, cycle lanes, plant service spaces, and bin storage; 1 no. ESB sub-station; and all other ancillary works above and below ground.
- Primary access via Congress Avenue and Secondary access via Cherrybrook Drive.

3.0 Planning Authority Decision

3.1. Decision

Permission refused on 06/02/2025 for 4 no. reasons as follows:

1. Unacceptable visual impact of proposal on account of its density, height, layout and visual prominence; poor qualitative standard of accommodation; and, substandard provision of communal open space, which collectively give rise to contravention of the site's 'existing residential' zoning.
2. Concern re: impact of development on stability of embankment and residential development to the north of the site and related implications for public safety.
3. Traffic hazard and endangerment of public safety arising from applicant's non-submission of adequate details to illustrate that the scheme roads and accesses have been designed in accordance with applicable technical guidance.
4. Potential for proposal to adversely affect River Boyne and River Blackwater SAC.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One planning report (dated 06/02/2025) forms the basis of the assessment and recommends that permission be refused. Points of note in the report include:

- *Principle of Development* – apartment development on the site is acceptable in principle but current proposal is not appropriate to the character/ pattern of development in the area and would negatively affect neighbouring amenities which would not be in compliance with site's 'existing residential' zoning. **Permission refused on this basis.**
- *Overdevelopment* – proposed height and 71uph density is considered excessive given the site layout (inadequate internal road network proposed, sub-standard provision of public and communal open) which would require a fundamental redesign; inappropriate relationship with neighbouring properties and with nearby Millmount Tower; and, visual prominence of the site. **Permission refused on this basis.**
- *Impact on Existing Residential Amenity* – visual prominence of site (historic character) together with the bulk, massing and height of proposed apartment blocks which have inadequate separation distances from each other and from neighbouring properties would give rise to unacceptable overlooking and overbearance.
- *Height* – 4-storey height is inappropriate given site's elevation and visual prominence and its location adjoining predominantly 2-storey housing.
- *Daylight & Sunlight* – insufficient detail provided on internal unit daylight analysis and assessment methodology. Information submitted in respect to overshadowing of communal open space is ambiguous but it was accepted that sunlighting to rear gardens of neighbouring properties on Congress Avenue, Marian Park and Cherrybrook Drive would not be unacceptably reduced, however PA not satisfied that internal daylight to neighbouring properties would not be negatively affected by overbearance and loss of sunlight.
- *Aspect and Orientation* – proposal is compliant with SPPR4 of 2023 Apartment Guidelines.

- *Floor to Ceiling Height* – ground floor level has a floor to ceiling height of 2.4m and is not compliant with SPPR5 of 2023 Apartment Guidelines (requires 2.7m min.).
- *Unit Mix* – provision of 1-bed units (55%) is excessive, not location appropriate and is not compliant with SPPR1 of 2023 Apartment Guidelines.
- *Minimum Apartment Floor Areas, Storage and Units Per Core* – proposal deemed compliant with SPPRs 3 (min. apartment floor areas) and 6 (units per core) of 2023 Apartment Guidelines.
- *Minimum House Floor Area* – 48sqm size of 1-bed houses meets SPPR2 of 2023 Guidelines.
- *Housing Quality* – not all apartment units not meeting minimum requirements.
- *Private Open Space* – all houses and apartments meet requirements via terraces/ balconies and private gardens.
- *Public Open Space* – quantitatively and qualitatively deficient on account of site layout and topography.
- *Communal Open Space* – qualitatively substandard due to overshadowing.
- *Universal Design* – proposal is compliant with requirements.
- *Future Residential Amenity* – proposal does not satisfy all requirements of the Apartment Guidelines or the Density Guidelines and would not therefore provide for a satisfactory level of residential amenity for future occupants.
- *Building Lifecycle Report* – not acceptable on basis of non-provision of detail on long-term running and maintenance costs per residential unit.
- *Materials & Finishes* – brick with render considered acceptable and in-keeping with character of the area.
- *Archaeology* – potential for unknown pre-historic features on site given location and Archaeological Impact Assessment should be undertaken as FI.
- *Access off Congress Avenue* – inadequate detail provided in respect to proposed upgraded access off Congress Avenue and its compliance with technical guidance such as DMURS. Proposal would be likely to endanger public safety by reason of traffic hazard. **Permission refused on this basis.**

- *Access via Cherrybrook Drive* – ongoing legal dispute between applicant and estate residents noted and likely to undermine the scheme’s access proposals.
 - *Internal Road Network* – ad-hoc one-way traffic system not acceptable to PA on basis that it would lead to traffic congestion and hinder emergency access.
 - *Parking* – provision compliant with 2023 Apartment Guidelines, however EV parking provision is not compliant with LCDP.
 - *Flood Risk* – site is not located in a zone of flood risk.
 - *Water Supply/ Foul Drainage* – proposals satisfactory with reference to Uisce Eireann submission.
 - *Surface Water Management* – inadequate details provided.
 - *Site Stability/ Morphology* – steep embankment to north side of site with a new apartment complex having been constructed downslope of same following the undertaking of slope stabilisation works. The applicant has not satisfactorily addressed the impact of the development on the structural stability of this slope.
- Permission refused on this basis.**

- *Part V* – proposal to comply via build and transfer of unit ownership to PA noted and will be ensured by condition in the event of a grant of permission.
- *Potential Impact on European Sites* – potential for indirect hydrological link arising from site’s surface water discharges, storm and attenuation infrastructure – drainage arrangements which are not to the satisfaction of the PA.

3.2.2. Other Technical Reports

- *Placemaking and Physical Development (PPDS)(18/01/2025)* – seeks FI in respect to road and junction design, evidence of legal consent re: stormwater sewer, location of EV charging points, provision of vehicle restraint system along north boundary and, on impact of site drainage infrastructure on stability of north embankment.
- *Louth Childcare Committee (LCC) (08/01/2025)* – supports proposal for childcare facility, notes demand for childcare for young children (0-3 years old) and highlights regulatory requirements around universal access and design/ layout of facilities.

- *Environment Section Report (ESR) (03/01/2024)* – no objection subject to conditions in respect to the developer providing a Construction Demolition Resource Waste Management Plan (CDRWMP), abiding by standard construction working hours and monitoring of noise levels.

3.3. Prescribed Bodies

Uisce Eireann (UE) (13/01/2025) – Confirmation of Feasibility (COF) issued confirms that proposed water supply connection feasible without requiring infrastructure upgrade and that wastewater connection is feasible subject to upgrade works to increase capacity of the UE network. These local network upgrades are not in the UR investment plan and are required to be funded by the applicant. UE seek that their standard conditions are attached in the event of a grant of permission.

Department of Housing, Local Government and Heritage (DoHLGH) – Development Applications Unit (DAU) (20/01/2025) – require further consultation with the applicant and project archaeologist on the results of the submitted visual impact assessment as it relates to setting of recorded monument LH024-041009 (Castle - motte and bailey) to enable the formulation of an appropriate archaeological recommendation on the proposal. Request Archaeological Impact Assessment is undertaken and submitted by way of further information (FI) given the potential for the development to physically and visually impact on the site and setting of this recorded monument and on any archaeological remains within the site.

3.4. Third Party Observations

182 no. submissions were received at PA stage and raised the following issues:

- Impact on vulnerable community members/ mental health impacts
- Negative impact on use of ABACUS Special School Sensory Garden
- Insufficient parking provided/ overspill parking concerns
- Concerns re: site entrance location, design and impact on local roads
- Concerns re: impact on cyclists and pedestrians
- Impact on Cherrybrook Drive – traffic and permeability
- Impact on Watery Hill Steps
- Overdevelopment and height/ zoning compliance

- Overshadowing, overlooking, overbearance and loss of sunlight
- Boundary screening issues and seeks that mature trees/ hedgerows kept
- Concerns re: tenure, demographic profile and housing/ unit mix
- Proposed public open space and amenity space is fragmented/ deficient
- Design does not respond to history/ architecture of area
- Negative design impact on adjacent protected structures
- Issues with archaeological assessment
- Traffic, pollution and noise/ disturbance impacts
- Concerns re: emergency access
- Construction and pest control impacts
- Impact on existing infrastructure and services in area
- Need for further community facilities
- Flooding/ drainage design issues and potential slip hazard
- Concerns re: ecology/ biodiversity and compliance with energy targets
- Health and safety concerns re: steep site topography & slope stability
- Development contributions
- Environmental monitoring
- Property value depreciation
- Procedural issues
- Legal issues re: land ownership
- Documentation accuracy issues

3 no. of these submissions were received from the appeal observers (Dolores and Pat Brannigan, Donal Walsh and ABACAS Special School). The issues they have raised are detailed in Section 8.3 of this report.

4.0 Planning History

4.1. Appeal Site

P.A. Ref. 11/510040 (ABP PL54.239678) – Permission granted on appeal on 14/05/2012 for demolition of exist. structures & construction of a 2-storey 66 no. bedroom Convalescing Home with 24 car parking spaces accessed from Cherrybrook Drive, Voluntary Housing/Assist. Living/Family unit consisting of 6 2bed single storey

units, 1 No 2 storey 3 bedroom unit, 3 No 1st floor 1 bedroom units with 5 car parking spaces accessed from upgraded exist. entrance Congress Aven. on the Upper Level of the Site, Medical campus consisting of 2 No 4 storey bars linked by a glass atrium, mix of general office/general practitioners facilities/cafe/meeting & conference facilities, 2 No Ground Floor Retail Units, 95 space ground floor/Basement Carpark 6 surface carparking spaces/420m2 creche at Ground Floor accessed from a new right hand turning lane to be established on the Donore Road on the lower level of the site, all associated site works, Landscaping and all associated services, subject to 20 no. conditions.

P.A. Ref. 06/510189 (ABP PL54.223302) – Permission granted on appeal on 11/12/2007 for 24 no. 2-storey, 3 & 4 bedroom houses with a creche on a site extending to 0.80 hectares. The application also provides for all assoc. site development works, landscaping, boundary treatments and a new vehicular access via the existing road at Cherrybrook Drive, Drogheda, subject to 24 no. conditions.

4.2. Neighbouring Site to North (An Cairéal Apartment Complex)

P.A. Ref. 20/275 – Permission granted on 28/09/2020 for permission for amendments to previously permitted development granted under PL18176 for development at site previously used as the Roadstone Batching Plant that incorporates the lower section of the previous batching plant, bounded by Donore Road to the north, the Watery Steps to the east, the upper section of the batching plant to the south and the Bloomsbury Centre to the west. The amendments to the development will consist of A. Removal of the basement car park and proposed 28 no. surface car parking spaces located to the rear of Block A. B. Modification of the 66 apartment layouts to accommodate elderly residents, comprising of 4 no. 1 bedroom apartments, 54 no. 2 bedroom apartments and 8 no. 3 bedroom apartments. The total number and mix of units and gross floor areas have not changed. C. Modification to the elevations and sections to reflect the amended apartment layouts. D. Minor modification of the positioning of the 3 blocks on the site and their composition. E. Modification of the communal facility, bin stores and general landscaping. F. Adjustment of the existing vehicular site access off Donore Road and introduction of two new pedestrian site access points; one at the foot of the Water Steps with a proposed ESB substation and a second access point off Donore Road, all as granted under PL 18176. G. All associated amendments to roof plant, site

lighting, signage, services, landscaping, external furniture, related infrastructure and site development works in conjunction with the amendments noted in points A-F, subject to 13 no. conditions.

P.A. Ref. 18/176 – Permission granted on 24/07/2018 for the demolition of all existing structures on site including the batching silos, aggregate bins, offices, single storey building, diesel tank, existing entrance gates etc., and part demolition/adjustments to the existing stone boundary wall at the Donore Road and Watery Steps. - Removal of a number of existing trees along the Donore Road and Watery Steps borders - Construction of 3 no. part 4/part 5-storey buildings containing 66 no. residential units and associated communal spaces, managers office, 185m² community facility, laundry room, planted courtyards and paths, and refuse store, over semi-basement containing 54 no. car parking spaces, cycle storage, plant and tenant storage. - The residential element consists of 30 sheltered housing units and 36 general needs housing units with a split of 4 no. 1 bedroom apartments, 54 no. 2 bedroom apartments and 8 no. 3 bedroom apartments. - Relocation of the existing vehicular site access off Donore Road and introduction of two new pedestrian site access points; one at the foot of the Watery Steps with a proposed ESB substation, and a second access point off Donore Road. - All associated roof plant, site lighting, signage, services, landscaping, external furniture, related infrastructure and site development works, subject to 22 no. conditions.

P.A. Ref. 06/510188 (ABP PL54.223361) – Permission refused on appeal on 13/12/2007 for Construction of 205 no. apartments in two blocks varying in height from 4 to 10 storeys, crèche, landscaping and all associated site works for 3 no. reasons: 1. Excessive height/ visual impact, 2. Overdevelopment, 3. Substandard level of residential amenity.

4.3. Neighbouring Site to North-West (Buttergate Apartment Complex)

P.A. Ref. 21/752 (ABP PL15.312639) – Permission granted on appeal on 19/06/2023 for two-storey extension of apartment Block A comprising 20 no. apartments, two-storey extension to Block B comprising 16 apartments and all associated site works, subject to 15 no. conditions.

P.A. Ref. 07/510073 - Retention permission granted in May 2007 for works to existing apartment development comprising a new position for the retaining wall on south

boundary, modifications to landscaping at front and rear gardens, elevational changes, and other minor design alterations.

P.A. Ref. 06/510042 – Permission refused in April 2006 for two residential apartment blocks of 6 storeys in height (66 no. units, total), including underground car parking, including ancillary site works.

P.A. Ref. 04/510328 – Permission granted permission in May 2005 for two residential apartment blocks of 3 storeys in height (48 no. units in total), including ancillary site works.

5.0 Policy Context

5.1. National Policy

Project Ireland 2040 – National Planning Framework (2018 as updated in 2025) – NPO 13 (planning performance-based criteria), NPO14 (urban regeneration), NPO27 (sustainable mobility)

The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities ('Density Guidelines' DoHLGH, 2024) – SPPR1 (Separation Distances), SPPR2 (Minimum Private Open Space Standards for Houses), Policy and Objective 5.1 (Public Open Space), Table 5.1 (replaced Sustainable Residential Development Guidelines (2009))

Sustainable Urban Housing: Design Standards for New Apartments ('Apartment Guidelines' DoHLGH, 2023) – SPPR1 (unit mix), SPPR3 (apartment floor areas), SPPR 4 (dual aspect), SPPR5 (floor to ceiling heights), SPPR6 (units per core) Sections 3.8, 3.18, 6.10 - 6.13 and Appendix 1.

Climate Action Plan (2024 & 2025) and Ireland's 4th National Biodiversity Action Plan (NBAP) 2023-2030

Design Manual for Quality Housing ('DMQH' DoHLGH, 2022)

Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice ('BRE Guidelines' BRE, 2022)

The Regulation of Commercial Institutional Investment in Housing Guidelines (DoHLGH, 2021)

Housing For All (DoHLGH, 2021)

Design Manual for Urban Roads and Streets ('DMURS' DoHLGH, 2019)

Urban Development and Building Height, Guidelines for Planning Authorities ('Height Guidelines' DoHLGH, 2018) – SPPR3

Road Safety Audit GE-STY-01024 ('RSA Standards' TII, 2017)

Architectural Heritage Protection Guidelines for Planning Authorities ('Heritage Guidelines' DoHLGH, 2011)

The Planning System and Flood Risk Management - Guidelines for Planning Authorities and Technical Appendices (DoHLGH, 2009) and Circular PL2/2014

Delivering Homes, Sustaining Communities (2008)

Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes and Sustaining Communities (DoHLGH, 2007)

Development Management Guidelines for Planning Authorities ('DM Guidelines' DoHLGH, 2007)

Framework & Principles for the Protection of the Archaeological Heritage (NMS, 1999)

Recommendation for Site Development Work for Housing Areas (DoHLGH, 1998)

Other - Referenced in Observations

All Ireland Pollinator Plan 2021-2025 ('AIPP' National Biodiversity Data Centre, 2021)

Regional Policy National Landscape Strategy 2015-2025 (DoHLGH, 2020) 2030

Agenda for Sustainable Development (United Nations, 2015) – SDG11 (sustainable cities & communities) and 13 (climate action)

Biodiversity Guidelines for Planning Authorities (2013)

Childcare Facilities, Guidelines for Planning Authorities (2001)

5.2. Regional Policy

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 – designates Drogheda town as a 'Regional Growth Centre' and as forming part of the Dublin-Belfast Economic Corridor with objective to prepare a Drogheda Joint

Urban Area Plan (UAP). RSES encourages targeted compact growth of the town through the renewal and regeneration of underused, vacant and/or derelict town centre lands for residential & commercial development facilitated through the joint UAP (RPO 4.11).

5.3. Development Plan

The Louth County Development Plan 2022-2027 (LCDP) applies.

Zoning

Sections 13.21.2.1 (Generally Permitted Use) and 13.21.5 (A1 – Existing Residential).

The site is zoned Existing Residential (A1), with the objective ‘to protect and enhance the amenity and character of existing residential communities’.

The property is not a protected structure, nor is it in an Architectural Conservation Area. There are no objectives for preservation of views, or objectives for the preservation of any sites or features of archaeological, geological, historical, scientific or ecological interest on the site. There are also no Tree Preservation Orders on the site, and it is not located within Flood Zones A or B.

Drogheda

Drogheda is subject to a Joint Local Area Plan (UAP) - most recently at the pre-Draft (Issues Paper) Stage.

Height/ Compact Growth/ Urban Design

Sections 13.8.4 (Density and Plot Ratio), 13.8.5 (Site Coverage), 13.8.6 (Building Heights), 13.8.7 (Layout) and Table 13.3 (Recommended Minimum Density and Plot Ratio) – 50uph and plot ratio of 2 (in town/ village centres).

PO SS4: To support high density sustainable development, particularly in centrally located areas and along public transport corridors and require a minimum density of 50 units/ha in these locations.

PO SS5: To support increased building heights at appropriate locations in Drogheda, subject to the design and scale of any building making a positive contribution to its surrounding environment and streetscape.

PO HOU 17: To promote and facilitate the sustainable development of a high quality built environment where there is a distinctive sense of place in attractive streets, spaces, and neighbourhoods that are accessible and safe places for all members of the community to meet and socialise.

Residential Development

Section 13.8 (Housing in Urban Areas)

PO HOU2: To support the delivery of social housing in Louth in accordance with the Council's Social Housing Delivery Programme and Government Policy as set out in Rebuilding Ireland: Action Plan for Housing and Homelessness.

PO HOU8: promote sustainable development of vacant residential sites and HOUSS62: To encourage the re-use and rejuvenation of vacant and under-utilised lands in rural towns, villages and rural nodes for appropriate uses.

PO HOU15: To promote development that facilitates a higher, sustainable density that supports compact growth and the consolidation of urban areas, which will be appropriate to the local context and enhance the local environment in which it is located.

PO HOU25: All new residential and single house developments shall be designed and constructed in accordance with the Development Management Guidelines set out in Chapter 13 of this Plan.

PO HOU28: To encourage innovation in design that delivers buildings of a high quality that positively contribute to the built environment and local streetscape.

PO HOU 29: To seek that all new residential developments in excess of 20 residential units provide for a minimum of 30% universally designed units in accordance with the requirements of 'Building for Everyone: A Universal Design Approach' published by the Centre for Excellence in Universal Design.

Policy SS58: To require the design, scale, and layout of residential development to be proportionate to and respect the character of the settlement in which it is located and to avoid any layout that would result in a suburban style development alien to the local environment.

Section 3.16.1 (Infill, Corner and Backland Sites) and Policy HOU32: To encourage and promote the development of underutilised infill, corner and backland sites in existing urban areas subject to the character of the area and environment being protected.

Policies HOU21 and HOU23: Compliance with 2007 Housing Guidelines and DMURS.
Policy CS4 (Phasing of Residential Development).

Section 13.8.9.1 (Privacy) – separation of at least 16m between opposing rear/side windows serving habitable rooms above ground floor level.

Sections 13.8.10 (Daylight and Sunlight), 13.8.11 (Boundary Treatment), 13.8.12 (Landscaping), 13.8.14 (Climate Change and Energy Efficiency) and 13.9.9 (Design, Detailing and Material Finishes).

Sections 3.15 (Dwelling Mix and Adaptable Homes) & 13.8.13 (Dwelling Design, Size and Mix) – appropriate mix encouraged and schemes of over 50 no. units to provide single storey units.

POz HOU26 (appropriate mix of house types) and HOU30 (daylight & ventilation).

Sections 13.8.15 (Public Open Space) –10-15% of net site area required and 13.8.16 (Play Facilities) – schemes of 50+ units to provide dedicated children's play areas.

Section 13.8.17 (Private Open Space) – as per Tables 13.4 & 13.5:

LCDP Minimum Private Open Space Standard		
House	Min. POS sq.m	Max. semi-private in lieu
1-bed	20	10
Apartments & Duplexes	See Below	Case by case basis
1-bed (2-person)	5	
2-bed (4 person)	7	
3-bd	9	

Section 13.8.9 (Bin Storage)

PO SC11: To require that all new residential development applications on lands greater than 1ha or for 100 units or more are accompanied by a Community, Social and Cultural Infrastructure Audit to determine if community facilities in the area are sufficient to provide for all future residents. Where deficiencies are identified proposals will be required to accompany the planning application to address the deficiency, either through direct provision on site or such other means, and in a manner acceptable to the Council.

Sections 13.8.27 (Apartments) and 13.8.28 (Design Standards for New Apartments)

13.8.32 (Infill and Backland Development in Urban Areas)

Mobility/ Access

Section 13.8.18 (Car and Cycle Parking)

Sections 13.16 (Transport), 13.16.11 (Parking Standards that Reflect the Demand and Location), 13.16.12 (Car Parking Standards), 13.16.14 (Traffic and Transport Assessments), 13.16.16 (Cycle Parking).

Tables 13.11 and 13.12 (Car and Cycle Parking Standards) – max. 1.5 car parking spaces per house/ duplex and max. 1 car space per apartment and 1 long-term cycle space per apartment bedroom and per house unit, and

LCDP Car Parking Standards		
House/ Duplex	Max. 1.5 per unit	
Apartment	Max. 1 per apartment	
LCDP Cycle Parking Standards		
	Long term (residents)	Short stay (visitors)
House/ Duplex	1 space per unit	1 space per 5 units
Apartment	1 space per bedroom	1 space per 2 units

Section (13.16.17 Entrances and Sightlines), Section 13.16.19 (Road Gradients) and Table 13.13: Minimum visibility standards for new entrances – 75m sight distance required for local roads

Section 13.16.9 (Charging Points for Electric Vehicles) – provision for same shall be made in parking areas with EV charging points provided in min. 20% of car spaces.

Section 13.16.7 (Disabled Parking) – min. 1 car space or 5% spaces overall.

Drainage/ Servicing

Sections 10.2.5 (Sustainable Drainage Systems), 13.20.1 (Public Water Supply and Wastewater Collection) and 13.20.4 (Sustainable Drainage Systems' (SuDS))

Section 10.3 (Flood Risk Management), POs IU26-28 (Flood Risk Management for New Development)

POs IU6 (Connect to Public Water Supply), IU11 (Water Conservation), IU15 (Rainwater Harvesting), IU19, IU21 & IU22 (SuDS), IU20 (GDSDS Compliance), IU23 (Separated Drainage), IU24 (Green Roofs).

Archaeology/ Built / Natural Heritage

Table 8.16 (Views and Prospects Drogheda) – VP49 Views of the town from Millmount

Map 8.18 (Views and Prospects, Drogheda)

Section 13.9.7 (Visual Impact Assessments)

PO ENV 18: To protect fisheries in all rivers in the County, where appropriate, including relevant species as contained in Annex II of the Habitats Directive.

Appendix 9 (Zones of Archaeological Potential)

Other - Referenced in Submissions

PO HOU27: To require the provision of single storey properties in residential developments in excess of 100 units at a rate of at least 1% single storey units per 100 residential units unless it can be demonstrated by evidence based research carried out by an appropriately qualified professional that there is no demand for this type of accommodation.

PO MOV 18: To secure, in co-operation with Iarnród Éireann and the National Transport Authority, improved rail services for the mid and south Louth areas and in particular to seek to examine the feasibility of re-opening the rail station in Dunleer and providing additional new rail stations for north Drogheda, south Dundalk and the mid-Louth area.

Appendix 10 (Walled Towns).

Section 4.4 (Louth Economic and Community Plan).

Appendix 3: Housing Strategy and Louth Housing Delivery Action Plan 2022 – 2026.

Louth Local Economic and Community Plan (LECP) 2024-2029

5.4. Natural Heritage Designations

The site is not located within or adjoining a European Site.

The following European sites are located within proximity to the site:

European Site	Site Code	Distance
River Boyne and River Blackwater SAC	002299	c. 250m
Boyne Estuary SPA	004080	c. 2km
River Boyne and River Blackwater SPA	004232	c. 2.9km
Boyne Coast and Estuary SAC	001957	c. 3.3km

The following proposed Natural Heritage Area is also located in proximity to site:

- The Boyne Coast and Estuary pNHA (Site Code 001957)
- Boyne River Islands pNHA (Site Code 001862)

6.0 EIA Screening

An EIA screening report for sub-threshold development was submitted as part of the application. This report determined that the proposed development would not give rise to significant environmental effects.

Having regard to the criteria set out in Schedule 7 of the Planning and Development Regulations (2001) as amended, there is no real likelihood of significant effects on the environment based on the characteristics and location of the proposed development and types and characteristics of potential impacts. No EIAR is required. Refer to Form 1 (EIA Pre-Screening), Form 2 (EIA Preliminary Examination) and Form 3 (EIA Screening Determination) in Appendix 1 for further details.

7.0 Water Framework Directive Screening

I have concluded, on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment. Refer to Appendix 3 (WFD Impact Assessment Stage 1: Screening) for further details.

8.0 The Appeal

8.1. Grounds of Appeal

A first party appeal submission was received (05/03/2025) and seeks to address the PA's reasons for refusal whilst also providing for additional information on specific matters.

The appeal is accompanied by an alternative proposal for a max height of 3-storeys i.e. with the fourth storeys removed from Blocks A and C and with the overall no. of units reduced from 71 no. to 64 no. and by revised section drawings for Blocks A and B with their grounds of appeal showing 2.7m Floor to ceiling (FtC) for the ground floors of both Blocks A and B. These alternative proposals are considered under paragraphs 9.3.18 and 9.2.33 of this report respectively.

The grounds of appeal can be summarised as follows:

Assessment

- As per the DM Guidelines, the PA are required to set out all substantial reasons for refusal as they relate to proposal.
- The NPF, Density and Height Guidelines all recommend assessment on basis of performance-based criteria/ design standards rather than prescriptive approach to the application of planning policy – however the PA followed the latter.
- The applicant was not given the opportunity to address via FI issues raised by PA's PPDS or the DoHLGH by FI and wishes to address these matters (which were not given as RR) as part of their appeal.
- The proposal was subject to 4 no. PAC meetings in the period April 2022 to June 2024 rather than 3 no. (as stated by PA) with the PA encouraging higher densities at the first two meetings with a change in opinion/ design advice in latter PACs.
- Scheme design evolved during PAC process in response to changes in planning policy/ best practice over the period and to PAC comments.

Material Contravention

- RR1 only refers to contravention of site zoning but does not set out basis for same with reference to contravention of other LCDP policy objectives.
- RRs 2-4 do not refer to contravention of policies or objectives of the LCDP.
- Proposal does not materially contravene LCDP.

Legal Issues

- In respect to legal ownership issues raised by the PA, Section 34(13) of the P&D Act (2000) would protect the rights of neighbouring landowners in this regard.

Rebuttal of Refusal Reason No.1

Density

- Town centre proposal (71uph) complies with LCDP policy on density (PO SS4, Table 13.3, Section 13.8.4) which requires a min. density of 50units/ha and no max. density and a plot ratio of min. 2.0 and with density range of 50-150uph (net) for 'town centre'/ 'centre & urban neighbourhood' areas of Regional Growth Centres (incl. Drogheda) in Density Guidelines.
- Plot ratio is a more appropriate assessment tool re: bulk and mass concerns.
- PA did not have regard to proposal's compliance with policy and housing targets of Housing for All, RSES, Louth Housing Strategy & Housing Delivery Action Plan and erroneously refer to outdated policy guidance from 2008 and 2016.

Unit Mix

- PAC encouraged higher percentage of 1-beds.
- LCDP POs HOU17 & 29 are noted, and proposal provides for a mix of unit sizes and typologies, are adaptable for universal access & suit requirements of intended tenure/ population (older persons seeking age-appropriate accommodation).
- Proposal responds to Louth housing needs re: smaller units & household size.
- Apartment Guidelines' SPPR1 states unit mix requirements apply to apartments and not to certain social housing schemes such as sheltered housing.
- Appellant does not accept PAs view that proposed tenure at odds with site location having regard to the planning history of site and elderly housing scheme permitted.

Height

- Materials & finishes/ principle of apartment development considered acceptable
- Design team fully considered proposed building height, bulk, scale & massing and assessed against Height Guidelines' SPPR3 performance criteria.
- PA assessment & determination did not have regard to SPPR3 and sought to maintain prevailing building height of area, undermining compact growth targets.
- Proposed height/ layout respects neighbouring properties/ character of the area.

Landscape and Visual Impact

- Design process considered potential visual impact on proposal re: Millmount tower.
- Locations for verified views in LVIA were agreed with PA during the PAC process.
- LVIA was carried out in accordance with best industry practice and considered a wide range of landscape elements, character areas and protected views.
- LVIA process concluded that proposal would integrate into its context and would not impact on the appearance/ character or visual amenity of the area.
- DoHLGH concerns re: impact on historic landscape setting noted but archaeological impact assessment was prepared and submitted and that site is located outside zone of archaeological potential/ notification/ Drogheda town walls.
- Appeal addresses DoHLGH request for FI and provides updated/ additional views.
- Proposal is not visually prominent and is screened from south by An Cairéal.
- Project archaeologist engaged with DoHLGH re: archaeological concerns however not all issues resolved due to appeal related time constraints.

Impact on Neighbouring Amenity

- Daylight and sunlight assessments of proposal were carried out in line with best practice.
- Submitted documentation shows proposal is adequately daylit and sunlit.
- PA concerns re: loss of sunlight to adjoining properties is unfounded & not explained.

Overlooking and Overbearance

- PA were satisfied that separation distances Density Guidelines' SPPR1 compliant.
- Given site layout & height placement there is no basis for the PA's concerns re: overlooking/ overbearance on neighbouring properties.

Accommodation Standards

- All units comply with minimum floorspace requirements of Apartment Guidelines.
- FtC height of 2.45m for Block A was drafting error. As per DMHQ (2022), SPPR5 of the Apartment Guidelines does not apply to Block B as it's a duplex-type unit, notwithstanding, a revised drawing is provided showing 2.7m FtC for same.
- Bedroom sizes given in HQA exclude storage areas.
- Bulky storage areas provided at ground floor/ in their upper storeys in Blocks A-C.
- The submitted HQA provides all required details in respect to storage.

- Given proposed apartment tenure/ demographic, occupancy level will be lower.
- Building Lifecycle Report prepared in compliance with requirements of Sections 6.10-6.13 of Apartment Guidelines and Multi-Unit Development Act (2011).

Communal Open Space

- Provision of communal open space greatly exceeds min. quantitative requirement.
- Landscape proposals are well considered and suitable for tenure/ demographic.
- Concerns re: landscape design/ maintenance can be addressed by condition.
- Communal open space areas receive adequate levels of daylight and sunlight.

Rebuttal of Refusal Reason No. 2

- PA could have dealt with issues raised in RR2 via FI or conditions.
- Site history illustrates that embankment would not preclude site's development with permission previously granted for proposals sited much closer to slope edge.
- PA's Environment Section raised no objections to proposal.
- Additional drawings and documents submitted with appeal provide full details of the slope stabilisation works carried out on the embankment and on the nature of the spatial relationship between the proposed site drainage infrastructure and the slope stabilisation features, where an adequate setback is provided for.
- Proposal would not have a negative impact on the stability of the embankment or endanger public safety of residential development to the north.
- PA's PPDS sought requirement for a vehicle restraint system along full north boundary be assessed and applicant is now proposing a new safety barrier there.

Rebuttal of Refusal Reason No. 3

- Proposal to provide secondary vehicular access off Cherrybrook Drive was informed by PA advice and site planning history illustrates that PA considered site accesses via both Congress Avenue & Cherrybrook Drive to be acceptable in principle.
- Appellant would not object if the Board sought to revert the Cherrybrook Drive access back to a 'filtered permeability' design (i.e. catering for pedestrians, cyclists and emergency services only) as per applicant's proposal at start of PAC process.
- The proposed road proposals would not endanger public safety by reason of traffic hazard and the appeal is accompanied by drawings illustrating why this is the case.

- Traffic and Transport report and drawings submitted with the application concluded that the proposed development would not prejudice traffic conditions locally/ not result in likely traffic safety concerns/ be accessible to emergency vehicles.
- PAs reliance on 1998 guidance re: through-traffic is inappropriate and DMURS (2019) is the relevant guidance that should be relied upon.
- Appellant has considered request from the PA's PPDS to provide for a home zone area within the proposal as this would negate the need for a cycle path, however this is unwarranted as proposal already makes extensive use of shared surface areas throughout scheme and the cycle path is an essential mobility option for intended demographic (i.e. elderly/ mobility impaired).
- One-way system has been carefully designed to optimise land use, lower carbon emissions and provide for efficient traffic flow/ reduce traffic congestion caused by contra-flow traffic conflicts and to ensure safety and accessibility for all road users.

Rebuttal of Refusal Reason No. 4

- Appellant considers that PA could have sought FI on matters relating to surface-water discharge and storm/ attenuation infrastructure in order to complete a comprehensive AA determination on the direct, indirect and in-combination effects.
- Additional information is provided by way of an Ecological Response Statement, and the Board has been provided with adequate information on the proposal.

Rebuttal of Other Matters Which Did Not Form Part of Refusal

- *Public Open Space* – multifunctional & tenure/ demographic appropriate design and provides for ecosystem services. Basis for POS calculation is clearly set out -spaces are provided for active & passive use - cumulatively meet min. qualitative and quantitative standards, should be considered in context of COS overprovision. Objective 5.1 of Density Guidelines allows the Board to set aside POS requirement and this flexibility is also provided for under Section 13.8.15 of the LCDP.
- *EV Charging Infrastructure* – application proposal to provide 7 no. EV charging points is compliant with LCDP Section 13.16.9. Details can be conditioned.
- *Third Party Submissions* – content of 182 no. third party submissions received noted and concerns raised were addressed by PA however, the appellant seeks to provide additional comment/ clarification in respect to the local impact of the construction

and operational phases and how this will be managed; the unwarranted concerns re: parking on account of unit tenure/ demographic profile; the impact on the Watery Hill steps which will not be altered or interfered with by the proposal; protection and enhancement of vegetation/ biodiversity/ landscaping on the site; and, the existence of supporting social/ community services & facilities in the vicinity and the scheme proposals for a community meeting room and inter-generational recreational, landscape and amenity areas.

Ultimately, the appellant seeks that the PA's decision to refuse is overturned by the Board.

Enclosures

The following updated drawings and documentation are provided as part of the grounds of appeal:

Drawing No.	Document/ Drawing Title	Scale
10275-ENG-PL-00-DR-A-014	Contiguous Site Sections (3-floor option)	1:250
10275-ENG-PL-00-DR-A-019	Site Section – North Embankment	1:125
10275-ENG-PL-ZZ-DR-A-030	Apartment Block A – Elevations & Sections	1:200
10275-ENG-PL-ZZ-DR-A-030	Apartment Block A – Elevations & Sections (3-floor option)	1:200
10275-ENG-PL-EL-DR-A-031	Duplex Block B – Elevations – General Arrangements	1:200
10275-ENG-PL-EL-DR-A-032	Apt Block C – Sections & Elevations (3-floor option)	1:200
10275-ENG-PL-ZZ-DR-A-050	Proposed Site Entrance & Junction Layout No. 1	1:250
10275-ENG-PL-ZZ-DR-A-051	Proposed Site Entrance Sightlines	1:250
10275-ENG-PL-ZZ-DR-A-052	Internal Road Junction Layouts	As shown
10275-ENG-PL-ZZ-DR-A-053	Type N2BL-01 Road Safety Barrier – Northern Boundary	As shown
10275-ENG-PL-ZZ-DR-A-054	Road Alignment – Longitudinal Cross Sections	As shown
24-04-ESR-002	ABP Appeal Engineering Report	n/a
21-104-R01	Geotechnical Design Report	n/a
21-104-RR01	Designer's Risk Assessment	n/a
21-104-01	Typical Slope Face Section	n/a

21-104-02	Zone and Profile Layout	n/a
21-104-03	Profiles 1, 2 & 3	n/a
21-104-04	Profiles 4 & 5	n/a
21-104-05	Profiles 6, 7, 8 & 9	n/a
21-104-06	Soil Nail Layout - Elevation	n/a
n/a	Ecological Response Statement	n/a
n/a	Landscape Response Statement	n/a
n/a	Photomontages	n/a

Revised Design Proposals

Whilst seeking that the Board overturn the PA's decision on their application scheme in the first instance (hereafter referred to as the 'scheme refused by PA'), the grounds of appeal also include revised architectural plans and other documentation prepared in response to RR1. These are submitted with the appeal submission for the Board's consideration.

This revised proposal (hereafter referred to as the 'appeal scheme') received by the Board on 5th March 2025 is very similar to the design originally proposed at planning application stage and provides for the following design revisions:

	Scheme Refused by PA	Appeal Scheme
Apartment Block A	2-4 storeys in height (parapet height of 44.55 OD) Ground floor FtC of c. 2.45m	2-3 storeys in height (parapet height of 41.30 OD) Ground floor FtC of c. 2.7m (on the 4-storey option but remains c. 2.45m on the 3-storey option)
Apartment (Duplex) Block B	Ground floor FtC of c. 2.45m	Ground floor FtC of c. 2.7m
Apartment Block C	3-4 storeys in height (max. parapet heights of 43.60 OD - 44.55 OD)	3 storeys in height (max. parapet height of 41.30 OD)

Having considered the nature and extent of the changes made to the proposal under the appeal scheme, I do not consider these to be material on the basis of same representing a reduction in the height/ density and quantum of development proposed with no change to overall siting and layout arrangements. Notwithstanding, were the Board to take a different view on the materiality of the appeal scheme, I note that it is

open to them under Section 131 of the Planning and Development Act 2000 (as amended) to request any party to the appeal or any person or body who has made submissions or observations on same to make further submissions or observations in relation to this matter.

8.2. Planning Authority Response

The PA in their response dated 24/03/2025 states that, having reviewed the grounds of the first party appeal, it is considered that the key planning issues pertaining to the site in the context of the proposal were set out in the planning report (dated 05/02/2025). In responding to key points made in the grounds of appeal the PA state:

- *PAC Advice* - The advice given by the PA at the final pre-application consultation meeting was that proposed layout/ design was substandard, constituted overdevelopment, would not provide for an adequate standard of future residential amenity (re: storage and open space) and that the daylight/ sunlight impact on adjoining properties should be further considered.
- *Basis for Contravention of Zoning* - PA remain of the view that the proposal contravenes the sites zoning as it constitutes overdevelopment of the site on account of poor layout/ design, substandard communal and public open space and the ad-hoc one-way traffic system and, that its density, height and layout would have a negative impact on the historic/ visual character of the area, on neighbouring residential amenity and on community facilities.
- *Housing Quality* - The proposal only provides for minimum qualitative accommodation standards and does not provide for an adequate quantum of communal amenity space.
- *Impact on Millmount Tower* - The PA are not satisfied that the applicant has addressed the matter of how the height and massing of the proposal and its location on an elevated site would negatively impact on the historic setting of/ obstruct views of Millmount Tower and complex.
- *Embankment Stability* - The information provided by the applicant in respect to the stability of the site's embankment relates to historic works (carried out under P.A.

Ref. 20/275) and does not clarify/ document how the proposal could impact safety of same.

- *Access* – applicant has not provided sufficient information to demonstrate that safe access/ egress can be achieved onto a section of Congress Avenue which has a poor width and alignment and that it would not give rise to traffic hazard or endanger public safety. Concerns remain that proposed ad-hoc one-way internal road network would lead to traffic congestion and undermine emergency access.
- *AA/ Ecology* – PA’s decision to refuse (re: AA) reflected lack of sufficient information on file at that time.

8.3. Observations

3 no. observations were received, two from neighbouring property owners and one from a local educational service operator:

- *Dolores and Pat Brannigan* - residents of Cherrybrook Drive (to west of site) (received 29/03/2025).
- *Donal Walsh* - on behalf of Residents of Marian Park, Mount St. Oliver, Priest Lane, Cherrybrook Drive and Congress Avenue (received 31/03/2025).
- *Abacus Special School* - located to east of site on opposite side of Congress Ave. (received 01/04/2025).

In the case of all three observers, the issues raised in the 3 no. observations are generally the same as those raised at planning application stage. The issues raised in the observations on the appeal are detailed below and grouped where relevant:

Common Issues Raised

- *Landownership* – portion of application site (south-west side adjoining Cherrybrook Drive carriageway) is not in legal ownership of applicant or taken in charge by LCC. Applicant has no legal entitlement to develop/ carry out works on the land.
- *Watery Hill Steps* – concerns raised about impact on steps re: removal/ privatisation of local, culturally important and historic public access and implications for pedestrian safety, connectivity to bus station and town centre and policy compliance.

- *Cherrybrook Drive* – concerns raised re: proposed creation of an access neighbouring estate and potential for overspill parking, increased traffic hazard and public safety issues and, negative impacts on public realm and residential amenity. Concerns also raised about nature and extent of design integration with scheme re: public realm tie-ins and conflict between landscaping and sightlines.
- *Height & Density* – proposed height inconsistent with prevailing height/ character of area, would adversely affect neighbouring residential amenity in terms of overshadowing and privacy and would contravene site's residential zoning together with height and density policy.
- *Traffic & Road Safety* – proposal would exacerbate existing local traffic congestion, parking and emergency access issues and would cause new issues. Potential risks to road and pedestrian safety arising from proposal need to be addressed.
- *Congress Avenue Access* – proposed entrance design is unsafe on account of road width and curvature, speed limits and poor driver and pedestrian visibility.
- *Internal Road Network* – design non-compliant with DMURS/ TII/RSA standards and would give rise to traffic safety risks and risks for vulnerable road users.
- *Water Supply, Drainage & Flooding* – concerns raised about lack of detail on drainage design and risk of localised flooding/ slip hazard. Water supply infrastructure is inadequate and insufficient details around timing/ nature of infrastructure upgrade works.
- *Open Space* – quantitatively and qualitatively deficient and non-compliant with national and LCDP policy.
- *Built Heritage & Archaeology* – insufficient archaeological assessment of proposal and proposed visual impact on setting of Millmount tower monument, St. Mary's School, Watery Hill Steps and historic townscape character of locality is unacceptable and non-compliant with applicable heritage policy and legislation.
- *Natural Heritage* – concerns raised about ecological impact having regard to removal of mature trees & vegetation, habitat loss and fragmentation of green/ ecological corridors & wildlife pathways. Proposal's compliance with LCDP, regional, national and UN policy guidance is called into question on this basis.

- *Environmental Impact* – Concerns raised about proposals proximity to River Boyne SAC/ to sensitive species and risks to same posed by cumulative ecological/ hydrological/ geological risks and effects posed by construction, artificial lighting, noise, increased human activity, drainage, sediment & material run-off, siltation, pollution, slope destabilisation, subsidence, tree & vegetation removal and alterations to river morphology. Calls for further baseline ecological surveys and mitigations and the submission of an EIAR.
- *Slope Stability & Risk to Public Safety* –Significant concerns raised in respect to the slope stability of the northern embankment and about the proposal's compliance with national and EU legislation and policy re: geotechnical risk, building control, construction site safety, environmental hazard/ liability. Local subsidence and slope profile give rise to greater risk from vegetation and drainage etc. Concerns raised that no retaining wall is proposed and no updated boreholes, topographical surveys, LIDAR scans or geological & stability assessments were undertaken in support of the current proposal which relies solely on an existing, stressed soil nail plate system. Concerns also raised about the proximity of proposed infrastructure (pipes, cables, water tanks, ESB substation, road, footpaths etc.) to the slope edge and potential requirement to encroach on or overhang the embankment/ cut into the slope/ place structural loads directly on slope face – which would each give rise to significant, unacceptable geotechnical, public safety, insurance and financial risks re: slope failure.
- *Social Need/ Age-Friendly Design* – scheme does not comply with age friendly housing requirements and does not provide adequate social/ community infrastructure.
- *ABACUS Special School* – increased traffic, noise, lighting, population and construction-related disruption and disturbance will negatively impact on vulnerable school community during the construction and operational phases.
- *Drafting/ Procedural Issues* – Noted drafting errors and inconsistencies in application and appeal documentation. Concerns raised in respect to inadequate stakeholder notification/ consultation on proposal and about timing of application lodgement. Planning compliance issues raised in respect to applicant's prior development schemes on site to north.

- *Property Damage/ Liability* – issue of applicant’s potential legal liabilities under European and national planning, environmental, heritage, consumer, public consultation, human rights and equality, civil liability and building control legislation and environmental remediation costs raised. Concerns expressed that construction activities will give rise to structural/ subsidence issues in adjacent properties.

Specific Issues Raised by Dolores and Pat Brannigan

- Concerns raised about impact on their property, residential amenity, health and wellbeing arising from proposed change of Cherrybrook Drive from a cul-de-sac to a through road.
- Concerns raised about lack of detail provided on height of Block B relative to the observers’ property and potential for proposal to unacceptably overshadow rear garden.

Their submission, which seeks that the PA’s decision to refuse be upheld, is accompanied by correspondence from the Property Registration Authority, various statements from past and current residents of Cherrybrook Drive in respect to the south-western boundary wall and photographs of the wall taken over the period 2008-2025.

Specific Issues Raised by Donal Walsh

- Observer provides details of various legal/ planning precedents in support of points made.
- Observer is of the view that issues which formed the basis of previous planning assessments are still unresolved and at issue in the current proposal.
- Oversights in the proposal relate to scheme’s proximity to medieval town walls/ to protected structures, overshadowing of solar panels and impact on climate resilience goals re: National Climate Action Plan; absence of climate impact assessment; mental health risk; poor provision of recreation and green infrastructure; vermin generation; block proximity to site boundaries; impact on safety/security/privacy; encroachment; disruption of community cohesion; compliance with European convention on human rights and archaeological protection; community engagement and compliance with LECP; safe cycling routes and pedestrian links in compliance with unspecified NTA Guidelines; adverse effects on vulnerable/ elderly residents.

I note that the observation refers to a number of development plan POs/ Sections (UD1, HER17, HER19, HER21, INF40, RD 21, NHB6, 11.6) which are not contained in the LCDP, with reference to another PO (MOV18 re: improving county rail services) appearing to bear no relevance to the proposal.

The observation, which seeks that the decision of the PA be upheld, also highlights a number of issues and concerns with statements made in the first party appeal and sets out what changes are needed and what further information is required on the proposal.

A list of 10 no. signatures is appended to the observation.

Specific Issues Raised by ABACUS Special School

- Proposal would adversely impact on operation of school sensory garden and greater buffer zone/ physical separation from scheme is sought in order to ensure acoustic, visual and environmental integrity is not compromised.
- Proposal will increase traffic risks to the school, obstruct sightlines during drop-off times and undermining emergency access.
- Proposal conflicts with national/ international legal frameworks protecting rights/ wellbeing of children with disabilities and with education law. Autism & Disability Impact Assessment required.

Their observation, which is made jointly by ABACUS Special School for Autistic Children with Complex Needs, Drogheda and Autism Support Louth and Meath, seeks that permission for the proposal in its current form be refused, is accompanied by aerial photos of the school and sensory garden and of a student using a landscape/ amenity feature within the sensory garden.

The observation also makes reference to a number of development plan POs (NHB6, RD21, INF40, HER19, HER21, UD1) of which I can find no record of in the LCDP.

8.4. Further Responses

None on file.

9.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, having inspected the site and, having regard to relevant local/ regional/ national policy and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle and Quantum of Development
- Design, Layout and Impact on Neighbouring Amenity
- Residential Standards
- Embankment Stability
- Traffic and Transportation
- Appropriate Assessment
- Other

9.1. Principle and Quantum of Development

Zoning

- 9.1.1. The proposed development site is zoned 'A1 – Existing Residential' under which 'residential' and 'community facility' are stated to be generally permitted uses subject to normal planning considerations and compliance with the relevant ministerial guidance and LCDP policy objectives and standards.
- 9.1.2. Refusal reason No. 1 (RR1) states that the proposal gives rise to a contravention of the site's A1 residential zoning on the basis of a number of different issues detailed under Section 3.1 of this report.
- 9.1.3. The appellant raised concerns in respect to the use of the term 'contravention' by the PA on the grounds that no reasoning for same is set out with reference to other LCDP policy objectives, an approach which they state is not in line with best practice as set out under the DM Guidelines.
- 9.1.4. In their response to the appeal, the PA reiterate their view that the proposal gives rise to a zoning contravention on the basis that it constitutes overdevelopment of the site which would result in a poor standard of residential amenity and a negative impact on the historic/ visual character of the area and on the amenity of neighbouring properties.
- 9.1.5. The observers contend that the proposal contravenes the site's zoning on account of its height and density exceeding allowable limits under national and local policy and also

on account of its overshadowing of neighbouring properties and negative impact on the continued operation of the ABACUS Special School and Sensory Garden to the east.

- 9.1.6. I note the stated objective of the A1 zoning, which is “*To protect and enhance the amenity and character of existing residential communities*”, and the views of all parties in respect to whether or not the proposal gives rise to a contravention of the site’s zoning. I consider that this matter can be dealt with via a consideration of the proposal’s compliance with the LCDP and other relevant policy guidance under the thematic headings set out in the sections below.

Density

- 9.1.7. Regarding the density and quantum of development proposed, I note that LCDP POs SS4 and HOU15 support higher, sustainable density in centrally located areas in line with plan objectives for the compaction and consolidation of urban areas, with Section 13.8.4, Table 13.3 of the LCDP requiring a minimum density of 50 units/ha in Regional Growth Centre locations. At c. 71uph, the proposed density complies with the quantitative policy requirements set out under the Development Plan and I find the overall quantum and residential density to be acceptable in this instance in accordance with Section 3.2 (Tailoring Policy to Local Circumstances) of the 2024 Density Guidelines.

9.2. Design, Layout and Impact on Neighbouring Amenity

Background

- 9.2.1. In assessing the proposal’s impact on neighbouring residential amenity, the PA noted that the scheme’s density, height and layout and the inadequate separation of the proposed apartment blocks from adjoining properties would give rise to unacceptable overlooking, overbearance and, by implication, loss of daylight and sunlight. Negative impacts on the amenity of dwellings located in the site’s immediate vicinity cited as part of their RR1 and reiterated in their response to the appeal.
- 9.2.2. The appellant is of the view that the proposed site layout and height placement should not give rise to any concerns in respect to overlooking of, or overbearance on, neighbouring properties and they note that the PA were satisfied that the proposed separation distances are compliant with SPPR1 of the Density Guidelines (2024).

- 9.2.3. The first named observer (residents of Cherrybrook Drive (south side)) raised concerns about overshadowing of their rear garden arising from the proposal and consider insufficient detail has been provided on the height of Block B relative to their property.
- 9.2.4. The second named observer raises an issue with the potential of the scheme to overshadow existing solar panels on neighbouring properties and to impact on climate resilience goals and compliance with climate action legislation.
- 9.2.5. The third named observer states that insufficient consideration has been given to the potential overshadowing of neighbouring properties and to the likely impact on neighbouring safety, security and privacy arising from encroachment and the blocks' excessive proximity to site boundaries.

Impact on Existing Residential Amenities

Block A

- 9.2.6. The U-shaped Block A (2-4 storeys) generally replicates the building line of the adjoining terraces in Cherrybrook Drive. The south portion of the block is sited c. 9.2m from the side elevation of No. 26 Cherrybrook Drive at its closest point whilst the north portion is c.11m from the side elevation of No. 63 Cherrybrook Drive, with a band of vegetation proposed along the shared boundary at this location.
- 9.2.7. I consider that there is no potential for the proposal to give rise to an unacceptable impact on the residential amenities of the adjoining properties to the west in terms of overlooking, overbearance, safety/ security, diminution of visual amenity, impact on sunlight or daylight or on the operation of existing solar panels as per Section 13.8.10 of the plan. This conclusion is based on a consideration of the aspect and orientation of the properties relevant to each other (which I found to be acceptable) and, having considered the adequate and policy compliant side-to-side separation distances provided for together with the intermediate planting arrangements, the block's west elevation arrangements and its step down in height (from 4 storeys to 2 storeys) toward the shared boundary.

Block B

- 9.2.8. Whilst the contiguous elevation drawings submitted do not show the contextual relationship between the linear Block B (3-storey) and the adjoining properties on the south side of Cherrybrook Drive or to the south along Marian Park, I note from the site

layout plan that the building line of Block B is relatively flush with the neighbouring terrace of houses and that it is sited c. 6.3m from the shared boundary with Cherrybrook Drive and c. 8.1m from the immediately adjoining house (No. 25.). Given the aspect and orientation of the properties relative to one another, together with the block's siting and separation from No. 25 and the proposals for intermediate planting along the shared boundary, I consider that there is no potential for it to overshadow or unacceptable impact the visual amenity of the house's rear amenity space. I also do not consider it likely to give rise to unacceptable overbearance on same on account of its positioning and height relative to the height of the adjacent house. In respect to the potential for overlooking, I note that there is one relatively small window to bedroom at 2nd floor level provided on west gable of Block B. I consider that this could be obscured by condition if necessary, where the Board are minded to grant permission.

- 9.2.9. Separation distances of between c. 23-24m are provided between the rear (south) elevation of Block B and the main rear elevations of properties on Marian Park in compliance with SPPR1 of the Density Guidelines (2024), which requires min. 16m between opposing windows serving habitable rooms, with the block itself being setback between c. 4.6m-12.7m from the shared boundary. Whilst I do not consider that the block would give rise to overshadowing of the rear gardens of these properties on account of this relationship or to negative impacts on their internal daylighting/ operation of their existing solar panels, I consider that the proximity of the Block B to the boundary shared with the Marian Park properties may give rise to some undue overbearance, diminution in visual amenity and potential concerns re: safety and security on account of the boundary arrangements between the site and the properties. In respect to the potential for overlooking, I note the adequate separation provided for and the fact that no balconies or terraces are proposed at the upper levels of the block's south elevation that could give rise to privacy/ nuisance issues.

Block C

- 9.2.10. L-shaped Block C (3-4 storeys) is sited on the east side of the scheme and to the rear of existing housing on Congress Avenue (which feature relatively long rear gardens). Its eastern (rear) elevation would be separated c. 36-52m from these properties whilst its southern elevation would maintain a setback of c. 33m from the adjoining properties in Marian Park. I am satisfied that the separation distances provided for comply with SPPR1 and would ensure that the proposal would not give rise to undue impacts on

those properties in terms of daylighting, sun lighting of their rear amenity spaces, operation of existing solar panels, privacy, safety/security, overbearance or diminution of their visual amenity.

Block D

- 9.2.11. The proposed terrace of 3 no. 1-bed, 1-storey houses on the north-east side of the site adjoining the entrance off Congress Avenue would back onto the boundary shared with No. 46 Congress Avenue providing for a separation of between c. 5m-5.5m from same. Considering the relative height and siting of these houses to the north of No. 46, I do not consider that they would have the potential to give rise to negative impacts on the neighbouring property's residential amenity.

Sunlight and Daylight

- 9.2.12. The appellant contends that the PA's concerns in respect to the proposal giving rise to a loss of sunlight to adjoining properties is unfounded with their reasoning not sufficiently explained. They also note that their daylight and sunlight assessments of proposal were carried out in line with best BRE practice (i.e. with Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice ('BRE Guidelines' BRE, 2022).
- 9.2.13. The concerns raised by the PA and observers in respect to sunlight and daylight are detailed above.
- 9.2.14. Given the separation distances provided between the proposal and the adjoining dwellings, I am satisfied that there is no potential for the proposal to give rise to an adverse impact on internal daylighting to those properties.
- 9.2.15. Section 13.8.10 (Daylight and Sunlight) of the LCDP states that care shall be taken in the design of residential developments to ensure adequate levels of natural light can be achieved in new dwellings and unacceptable impacts on light to nearby properties are avoided in line with BRE guidance. The Apartment Guidelines (2023) state that levels of natural light in apartments is an important planning consideration and regard should be had to the BRE standards with the Density Guidelines (2024) stating that PA's must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. In terms of assessing the potential for overshadowing existing properties (located offsite), having

reviewed the 'Daylight and Overshadowing report' submitted in support of the application (which assessed against the impact of the proposal on adjoining properties against BRE guidelines) and specifically Section 4 of that report which dealt with amenity overshadowing external to the site, I am satisfied that the assessment is robust and clearly shows that there would be little or no impact on sun lighting to private amenity spaces of properties in the vicinity of the site (i.e. measured under BRE guidance as per hours of sunlight received on 21 March), including those at Cherrybrook Drive, Marian Park and Congress Avenue.

Conclusion

- 9.2.16. There is potential for the proposed Block B to give rise to an unacceptable, negative impact on neighbouring residential amenity (neighbouring Marian Park properties) in terms of safety/ security and visual diminution/ overbearance and I consider that permission should be refused on this basis.

Impact on Neighbouring Community Facilities

- 9.2.17. The PA's refusal reason No. 1 states that the proposed development, by virtue of its density, height and layout, would have a negative impact on the amenity of community facilities in the site's immediate vicinity and would thus contravene the A1 zoning.
- 9.2.18. The third party observers argue that appropriate regard has not been given to the potential impacts on the community of ABACUS Special School/ on their sensory garden arising from both the construction and operational phases of the project. They seek that a greater buffer zone and/ or physical separation from the proposal is provided to ensure acoustic, visual and environmental integrity is not compromised.
- 9.2.19. The appellant notes that observers' concerns in respect to the impact of the construction stage of the project on neighbouring properties and social and community facilities and states that this will be minimised and mitigated through the preparation of a CEMP and a Construction Traffic Management Plan (CTMP). With regard to the observers' operational concerns, the grounds of appeal state that operational phase impacts of traffic and noise would not be disproportionate to the proposed residential land use (i.e. recognising the reduced car parking provision, intended tenure, and separation distances).

- 9.2.20. I acknowledge the scope of the concerns raised in respect to the impact on ABACUS Special School and I note the observers' views that the proposal would give rise to a contravention of inclusive education, disability and human rights frameworks/ legislation and to a conflict with national/ international legal frameworks which seek to protect the rights/ wellbeing of children with disabilities and, their request that an Autism and Disability Impact Assessment is undertaken.
- 9.2.21. I note the concerns raised in respect to disability, educational and human rights legislation which are issues beyond the scope of this report. I acknowledge that there is potential for significant noise/ vibration impacts on the aforementioned sensitive locations and receptors (i.e. as would be the case for any development of these zoned lands) during site enabling and construction phases. However, given that such construction impacts would be short term in nature, I am satisfied that the impacts predicted to arise can be managed, mitigated and avoided by the measures which form part of the proposed scheme; through good construction management and practice; through proposed mitigation measures; and, through the attachment of suitable planning conditions. By the same rationale, I consider it appropriate that the developer be required to prepare and submit a CEMP, Construction Traffic Management Plan (CTMP) and a Construction Noise Management Plan (CNMP) as a pre-commencement condition(s) where permission is granted, as well as monitoring of the excavation/ site enabling and construction phases of the development to mitigate and avoid any significant adverse impacts on local/ residential amenities.
- 9.2.22. In terms of operational impacts, I note that the project proposes significant improvements to the nature and extent of the pedestrian infrastructure on Congress Avenue. These will also enhance pedestrian connectivity to the ABACUS Special School and will improve the public realm for vulnerable road users. I am satisfied that the concerns raised by the observers in respect to pedestrian safety and traffic management are addressed by the submitted RSA and that they have been adequately dealt with under Section 9.3 of this report. In terms of the suggested buffer zone between the scheme and the school/ sensory garden, I note that the design and siting of the proposal ensures that a significant separation is already provided for between the main body of the scheme and the school complex with extensive intermediate planting and landscaping proposed. On this basis I consider the relationship as proposed to be appropriate and not in need of further modification.

Visual Impact

- 9.2.23. The PA were of the view that the visual relationship between the proposal and Millmount Tower was unacceptable on account of the schemes' height, massing and visual prominence on an elevated site, with permission being refused on this latter basis in line with RR1. In their response to the first party appeal the PA reiterated their concerns about the potential for the proposal to negatively impact on the historic/ visual character and pattern of development in the area and specifically on the historic setting of, and views of, Millmount Tower and complex.
- 9.2.24. The DoHLGH, having considered the results of the submitted visual impact assessment, sought further information from the applicant on the potential for the proposal to physically and visually impact on the site and setting of recorded monument ID: LH024-041009 (Castle - motte and bailey). I note that no further submission on the appeal was received from the DoHLGH.
- 9.2.25. The second named observer draws attention to the proposal's proximity to protected structures and its potential to impact on the locality's historical housing context and it is their contention that the proposal is out of character with the area's historical landscape, townscape and urban morphology.
- 9.2.26. The third named observer raises similar concerns that the proposal is out of character with the historical landscape and townscape at this location and highlights various issues with the submitted LVIA in this regard. They are also concerned about the proposal's potential to obscure visibility of Millmount Tower and to negatively impact on its setting together with that of St. Mary's School – effects which they state would not be in compliance with LCDP built/ cultural heritage policy, with legislation on national monuments or, with national heritage guidance.
- 9.2.27. The appellant contends that their Landscape and Visual Impact Assessment (LVIA) was carried out in accordance with best industry practice and considered a wide range of landscape elements, character areas and protected views. They note that the verified views were agreed with PA during the PAC process, with the potential visual impact of the proposal on Millmount tower given due consideration during the design process. They argue that the LVIA process concluded that proposal would integrate into its context and would not impact on the appearance/ character or visual amenity of the area. They also note the application stage issues raised by the DoHLGH in respect to

the potential impact on historic landscape setting and state that their response addresses same by providing for updated/ additional views. The grounds of appeal conclude that the proposal is not visually prominent, is screened from south by the existing An Cairéal scheme and, that its height and layout is respectful of neighbouring properties and the overall character of the area.

9.2.28. Based on my inspection of the appeal site and its immediate surrounds, I note that the townscape at this location is predominantly characterised by 20th century housing in the form of relatively narrow urban residential streets with 2-storey shallow, narrow-plan terraced properties with front and rear gardens (as seen on the nearby portions of Congress Avenue and Marian Park), with a more spacious, lower density and suburban-type estate layout with mainly 2-storey semi-detached properties evident in Cherrybrook Drive. As per the appeal site, the existing housing surrounding same sits on an elevated plateau above the town centre to the north, with its visibility being screened by a dense treeline lining Donore Road (to the north-west), by the existing 3-5 storey An Cairéal and Buttergate apartment complexes (which front Donore Road) to the north and by the appeal site itself and the intervening void space that it creates at this location. The difference in ground levels between the appeal site and the adjoining properties to the south (An Cairéal apartment complex and parade of commercial properties) is stark and significant with the steep intervening embankment and fence-lined ridge above being visible to the rear of these properties as one travels along Donore Road.

9.2.29. Whilst I acknowledge that the proposal, by virtue of its height and layout, constitutes a departure from the established density and built form of the area, I do not consider that this would, in isolation, give rise to an adverse impact on the general character and pattern of development in the area having regard to the requirements of the LCDP, national and regional policy in respect to compact urban growth and the fact that the proposed palette of materials and finishes would help mitigate visual impact and harmonise with those of the area's existing housing. I am also satisfied that other national monuments and Protected Structures in the vicinity of the appeal site are sufficiently visually and physically separated so as not to be affected by the proposal. However, I do consider that the proposal's location on an elevated, visually prominent site in the southern environs of Drogheda town, within the Boyne and Mattock Valley Landscape Character Area and proximate to sensitive local receptors (such as the

adjoining residential apartment scheme to the north and Millmount Tower and complex to the north-east) requires further consideration as per the below.

9.2.30. Drogheda's landmark Millmount Tower and complex is identified as a Protected Structure and Architectural Conservation Area under the LCDP and is also designated as a national monument under ID: LH024-041009. The fortified Martello tower complex is situated atop a large earthen mound located c. 300m to the north-east of the appeal site within the town's southern environs overlooking the River Boyne. The tower's elevated position on a steep ridge provides it with significant views across Drogheda town (to the south, south-east and south-west).

9.2.31. Table 8.16 of the LCDP provides details of the views and prospects of special amenity value which are subject to protection and preservation with viewpoint No. 49 (VP49) relating to 'Views of the town from Millmount' and viewpoint No. 51 (VP51) to 'Views of Millmount from the West'. Having consulted LCDP Map 8.18 (Views and Prospects of Drogheda), I am satisfied that there is limited potential for the proposal to hinder or obstruct the view from Drogheda's Bridge of Peace further to the north-west (as per VP51). However, I do note that the proposal has the potential to materially affect the view from VP49 i.e. the panoramic, 360 degree views of Drogheda town from the Millmount tower complex and specifically, the view to the south-west. In this regard, the photomontage document submitted as part of the application (and updated as part of the appeal) seeks to visually illustrate the proposed development through various computer-generated images. Having visited the site, and completed a visual inspection up close, and from the surrounding area, I consider that the images are an accurate expression of how the proposal would appear as if constructed. I have considered the LVIA and photomontage images of the proposal submitted at application stage together with those provided as part of the grounds of appeal (particularly viewpoint locations PM 07 and PM 09 which correspond with LCDP VP49 and VP51). Having done so, I am satisfied that the proposal, by virtue of its layout, graduated height and massing and screening by existing, intervening vegetation would not unacceptably hinder or obstruct the view of Millmount tower and complex from the Peace Bridge or the view from Millmount of Drogheda's south-western environs (whilst noting that it would give range to a permanent, moderate change in the landscape/ townscape character at this location).

9.2.32. However, having considered PM 04, 06, 11 and 12 (i.e. photomontage views of the proposal from Donore Road provided as part of the appeal), I am not satisfied that the impact of the proposal on the adjoining properties to the south has been adequately illustrated or considered. Furthermore, having considered the information on file in respect to the design and siting of the scheme together with the proposal's location on an elevated, visually prominent site in the southern environs of Drogheda town, directly above the An Cairéal apartment complex, I am of the view that its siting, height and massing would render it visually dominant and would give rise to unacceptable overbearance on, and diminution in visual amenity of, the An Cairéal scheme which would I consider would be a material contravention of the site's A1 zoning, which seeks to protect and enhance the amenity and character of existing residential communities, and would also be non-compliant with Section 13.8.32 (Infill and Backland Development in Urban Areas) of the LCDP.

9.2.33. The appellant, as part of their grounds of appeal, has provided the Board with an alternative design proposal for apartment blocks A and C in which the height of both blocks is reduced from a max. height of 4 storeys to a max. height of 3-storeys. Whilst this downward modification in height might go some way toward addressing the issue of overbearance arising from block height, I am not satisfied that it would address the more cumulative issue arising from the blocks' siting, massing and visual prominence on an elevated plateau above the scheme to the south and, a refusal in this regard is still recommended.

9.3. Residential Standards

Background

9.3.1. Refusal reason No. 1 states that the proposed development provides for poor qualitative standards of accommodation and for a substandard level of communal open space.

9.3.2. The PA in their response to the appeal (24/03/2025) state that, in respect to housing quality, their advice at PAC stage was that the proposed layout/ design was substandard, constituted overdevelopment and, would not provide for an adequate standard of future residential amenity (re: storage and open space). It was also their view that the proposal only provides for minimum qualitative accommodation standards and for an inadequate quantum of communal amenity space.

9.3.3. The following is a summary breakdown of the unit types proposed:

Dwelling Size	Houses	Apartments/ Duplexes	Total (%)
1-bed (2pers)	3	36	39 (55%)
2-bed (4pers)	0	25	25 (35%)
3-bed (5pers)	0	7	7 (10%)
Total	3	68	71 (100%)

Apartments

- 9.3.4. In considering the residential amenity of the proposed apartments, regard is had to the Apartment Standards (2023) and the requirements of the LCDP, as relevant.

Unit Mix

- 9.3.5. The proposal entails the provision of 68 no. apartment/ duplex units as follows:

Block	1-bed (2pers)	2-bed (4pers)	3-bed (5pers)
A	12	19	-
B	7	-	7
C	17	6	-
Total:	36	25	7
% Mix	51%	35%	10%

- 9.3.6. Sections 3.15 and 13.8.13 of the LCDP specify the need for an appropriate mix of residential accommodation (household types & tenures) without setting out quantitative requirements on same. The PA considered the provision of 1-bed units in the scheme to be excessive, not location appropriate and not compliant with SPPR1 of 2023 Apartment Guidelines.
- 9.3.7. This 51% 1-bed units proposed marginally exceeds the max. 50% 1-bed/studio units allowed under SPPR1 of the Apartment Guidelines (2023). I note that the appellant has highlighted that the Guidelines state that this mix parameter does not apply to certain social housing schemes such as sheltered housing and I acknowledge the 'letter of interest' (23/10/2024) from Respond housing associated submitted with the application

in this regard. The appellants do not accept PA's view that proposed tenure is at odds with site location having regard to the planning history of site and elderly housing scheme permitted and they argue that a higher percentage of 1-beds was encouraged at PAC stage; that the proposal responds to Louth-specific housing needs in respect to smaller units and household sizes; and, that the proposal provides for a mix of unit sizes and typologies which are adaptable for universal access and suited to the requirements of the intended tenure/ population (older persons seeking age-appropriate accommodation which means occupancy levels will be lower than specified).

- 9.3.8. The submission from LCC at application stage sought that the regulatory requirements around universal access be considered in the design of the scheme. In this regard I note the universal design statement submitted with the application and the details in respect to same provided on the floor plans.
- 9.3.9. The second and third named observers take issue with the appellant's statements in respect to the scheme's age friendly credentials and its proposed role in addressing the housing crisis, with the former expressing the view that it does not comply with age-friendly housing requirement, LCDP POs HOU27 and HOU29 or the Residential Development Guidelines (2009).
- 9.3.10. Having reviewed the description of development applied for together with the contents of the Respond letter, I note that the proposal is not described as a social/ sheltered housing scheme in the statutory notices or file documentation. On this basis, I find the proposal to be compliant with the LCDP dwelling mix policy but non-compliant with SPPR1 (unit mix). However, given the marginal (i.e. 1%) nature of the scheme's non-compliance with same, I do not think that a refusal of permission is warranted on the basis of this matter of apartment mix alone given the provision of 3 no. 1-bed houses units within the overall 71 no. unit scheme and having regard to the LCDP which does not specify quantitative use mix requirements.

Floor Areas

- 9.3.11. As detailed in the housing quality assessment and schedule of accommodation (SoA) which accompany the application, the 1-bed (2pers) duplex/ apartment units would have a floor area of between c. 46sqm and c. 50sqm, the 2-bed duplex/ apartment (4pers) units would have a floor area of c. 79sqm and 80sqm and the 3-bed (5pers) duplex units would have a floor area of c. 112sqm. With respect to minimum floor areas, the

proposed apartments exceed the minimum overall apartment floor areas specified in the Apartment Guidelines (2023) SPPR3 (i.e. 1-bed (2pers) 45sq.m/ 2-bed (4pers) 73sqm/ 3-bed (5pers) 90sqm) + additional floor area required to provide for stairways and landings in accordance with Building Regulations) and in Table 13.5 of the LCDP.

9.3.12. The SoA also demonstrates that the apartments are generally compliant with the associated minimums set out in Appendix 1 of the Guidelines in relation to aggregate floor areas for living/dining/kitchen rooms and aggregate bedroom floor areas – with the exception of unit No's A11, 12, 14, 20, 22, 25, 28 and 31 in Block A and unit B12 in Block B). However, there are evident discrepancies between the SoA and the submitted plans in relation to the standard of accommodation that will be provided to future residents which makes it very difficult to ascertain the scheme's overall compliance with the guidelines – Block A, Unit A01 and Block C, Unit C01 are two such example where there are evidence discrepancies in terms of those unit's, inter alia, bedroom size(s) and the area of their aggregate kitchen/living/dining areas. Whilst the guidelines do allow for some flexibility (5% variance) in respect to room areas and widths subject to overall compliance with required minimum overall apartment floor areas, given the discrepancies and scale of shortfalls evident in the documentation submitted (i.e. across a wide range of Required Minimum Floor Areas and Standards), I would have serious concerns about the quality of accommodation that would be provided for future residents of this scheme.

9.3.13. Sections 3.15 and 13.8.13 of the LCDP require that schemes with 25+ units endeavour to provide adaptable, universally designed accommodation suitable for older persons and those with disabilities. In addition, there is a requirement under Section 3.8 of the guidelines for *“the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)”*. In this case, these standards would appear to be met.

Storage

9.3.14. It is stated in the grounds of appeal that the bedroom areas given in the schedule of accommodation exclude storage areas and that the residents of the proposed

apartments would have access an additional bulky storage area at ground floor level and in the upper storeys of apartment Blocks A-C.

- 9.3.15. As detailed in the schedule of accommodation and compliance tables/ floor plans accompanying the application, the proposed 1-bed units would be provided with between c.2sqm and c.5.5sqm of storage (3sqm required), the 2-bed units with between c. 5.2sqm and c. 10sqm of storage (6sqm required), and the 3-bed units with c. 6sqm of storage (9 sqm required). On this basis, I note that a significant proportion of the units across Blocks A, B and C are non-compliant with the storage requirements specified in Appendix 1 of the Apartment Guidelines (2023). Having considered the appellant's arguments and the requirements of the guidelines, I consider that the 62sqm bulky storage at ground floor level within block A would satisfy the identified shortfalls in that block, but I do not consider the bulky storage at the upper storeys of Blocks A and C (both 15sq.m) to be an acceptable mitigation. I also do not consider the small areas of externally accessed storage for the 1-bed duplex units to be adequate. The identified in-unit storage shortfall contributes to the serious concerns I have about the quality of accommodation that would be provided for future residents of this scheme.

Dual Aspect/Floor to Ceiling Heights/Apartments per Core

- 9.3.16. SPPR4 requires that a minimum of 50% of apartments proposed in suburban or intermediate locations are dual aspect units, SPPR5 requires that ground level apartment floor to ceiling heights shall be a minimum of 2.7 metres and SPPR6 specifies a maximum of 12 apartments per core. These standards are reiterated in Section 13.8.28 of LCDP.
- 9.3.17. With regard to dual aspect, upon review of the plans submitted at application stage, I note that 59 no. apartments constitute dual aspect units (with 4 no. single aspect north-facing apartments identified in Block C and 2 no. of these being at ground floor level). Whilst I note that these 4 no. apartments face toward the town centre and the River Boyne, they also occupy an intermediate urban location overlooking another apartment scheme and, for this reason, I do not consider that they overlook a 'significant amenity' i.e. a public park, garden or formal space as defined by the Apartment Guidelines (2023). In light of this, I consider that the proposed development does not comply with the requirements of Section 3.18 and SPPR 4.

- 9.3.18. The PA determined that the proposed apartments' floor ceiling height (FtC) at ground floor level did not comply with the 2.7m policy requirement as per paragraph 3.22 and SPPR5 of the guidelines. The grounds of appeal sought to address this issue by clarifying that the FtC height of 2.45m for Block A was drafting error and that, as per DMHQ (2022), SPPR5 of the Apartment Guidelines does not apply to Block B as it's a duplex-type unit. Notwithstanding their arguments, the appellant provides revised section drawings for Blocks A and B with their grounds of appeal showing 2.7m FtC for the ground floors of both Blocks A and B. I considered the revised proposals submitted as part of the grounds of appeal to be acceptable and compliant with the LCDP.
- 9.3.19. A maximum of 8 apartment units per core is proposed in this scheme (Blocks A and C) thus complying the max. standard of 12 units per core prescribed under SPPR6.

Daylighting

- 9.3.20. The policy requirements around sunlight and daylight are detailed in paragraph 9.2.15 of this report. In this respect, the application is accompanied by a Daylight Analysis and Overshadowing Report (08/11/2024) which, amongst other things, includes an assessment of the proposed apartment blocks in terms of daylight access to habitable rooms (kitchen/living/ dining rooms assessed against the BS EN 17037:2018 standard). The results contained therein, illustrate that all habitable rooms/ apartments comply with the applicable BRE requirements. I am satisfied with the daylight/ shadowing assessments carried out and the conclusions reached in the context of the results of the same. I am also generally satisfied that daylight and sunlight considerations have informed the proposed layout and design in terms of separation distances, scale, window sizing and the aspect of units in compliance with PO HOU30.

Private Amenity Space

- 9.3.21. As detailed in the schedule of accommodation and compliance tables/floor plans accompanying the application, the 1-bed (2pers units) would be served by balconies in excess of c. 5sqm, the 2-bed (4pers) units by balconies of c. 6sqm or greater and the 3-bed (5 pers) units by c. 10-11sqm balconies (noted discrepancy between the SoA and GA plans in respect to same) – all with a minimum depth exceeding 1.5m. Whilst the 1-bed and 3-bed units comply with the quantitative requirements set out in relation to private amenity space, I am not satisfied from the SoA that the proposed private amenity

areas serving the 2-bed units in Block C (Units C13-C15 and C19-C21) comply with same.

Communal Amenity Space

- 9.3.22. In accordance with Appendix 1/ paragraph 4.10 of the Apartment Guidelines (2023), a minimum of 418sqm of communal, open amenity space (COS) would be needed to serve the proposed apartment/ duplex units. Furthermore, in light of the 32 no. of 2+ bedroom duplexes/ apartments proposed, this is required to contain a small play space (about 85–100 sq. metres) to serve the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building.
- 9.3.23. As per the description of development in the statutory notices, permission is sought for COS totalling 836 sq.m which the landscape report illustrates would be provided across 3 no. separate areas: 214sq.m to the immediate west/south/ south-west of Block A, 281sq.m between Block B and the southern boundary and 341sq.m between Block C and the eastern boundary (I note that different (lower) figures for same appear to be provided on the Site Layout Plan (POS) drawing submitted with the application).
- 9.3.24. The appellant is of the view that the COS provided greatly exceeds the minimum quantitative requirement and that these areas receive adequate levels of daylight and sunlight.
- 9.3.25. The PA raised concerns with respect to the overshadowing of the COS proposed and, therefore, its quality and functionality, citing the substandard provision of COS for future occupants in their refusal reason No. 1 (RR1).
- 9.3.26. Having examined the detail of the proposals, I do not consider it appropriate that the area adjoining Block A be regarded as contributing to the scheme's COS on the basis of its narrow, intermediate nature, use for multiple other functions such as circulatory pathways/ access to apartment block/ cycle parking and the likelihood of its significant overshadowing on account of its scale, aspect and siting (this area of COS was not assessed as part of the overshadowing assessment undertaken for the scheme).
- 9.3.27. I am of the view that the 341sq.m area to the east of Block C would provide for a relatively good standard of COS with regard to its layout, orientation/ aspect and relationship with the adjoining apartments. However, I draw the Board's attention to the

proximity between Block C and the site's north-eastern boundary (c. 1.64m separation) which may undermine external access to this communal amenity space and necessitate unintended access from the south via a parking area which may raise pedestrian safety issues.

- 9.3.28. However, I am not entirely satisfied with the quality of the 281sq.m area of COS to the south of Block B on account of the narrow, left-over nature of this greenspace and proximity to the adjoining apartment terraces (which can clearly be seen on the site boundary layout plan), notwithstanding that its south-west and north-east sections provide for more generous spacing and seating with the intervening space functioning as throughway lined with native planting.
- 9.3.29. On balance, I consider that the COS proposed adjacent to Blocks B (in part) and C (in full) is accessible, secure, relatively useable and adequately sunlit and, on this basis, would adequately serve the communal amenity needs of their residents. Furthermore, I consider Block A's adjacency to the scheme's main central area of public open space compensates for its poor COS.
- 9.3.30. In conclusion I am generally satisfied that, overall, the proposal complies with the applicable quantitative and qualitative COS standards. However, having considered the landscape plan for the scheme, notwithstanding the appellant's arguments in relation to the intended demographic/ tenure of the scheme, I consider that the applicant has not satisfactorily addressed the requirement to provide for a small, dedicated play space to serve the specific needs of toddlers and children as detailed above.

Bin Storage

- 9.3.31. Paragraph 3.37 of the Apartment Guidelines (2023) states that "*provision shall be made for the storage and collection of waste materials in apartment schemes. Refuse facilities shall be accessible to each apartment stair/lift core and designed with regard to the projected level of waste generation and types and quantities of receptacles required*". Section 13.8.19 of the LCDP states that Provision shall be made for the storage, segregation and recycling of waste in residential developments. Upon review of the plans and operational waste management plan submitted, it is apparent to me that dedicated communal refuse storage areas are provided at ground floor level of each apartment block. These would appear to be generally acceptable in terms of accessibility, are appropriately sized and appropriately screened to reduce visibility.

Privacy/ Separation Between Blocks

- 9.3.32. SPPR1 of the Density Guidelines (2024) requires a minimum separation distance exceeding 16 meters between opposing windows serving habitable rooms in apartment units above ground floor level. Upon review of the plans submitted, the proposed development complies with this requirement, with separation distances of between c. 25.4 - 27.7 metres provided between Blocks A and C, a minimum separation of 11.2m metres provided between Blocks B and C (which are offset from each other) and a minimum of c. 14.8m provided between Blocks A and B.

Houses

- 9.3.33. In considering the residential amenity of the proposed houses, which are located adjacent to the entrance of the scheme off Congress Avenue, regard is had to the Quality Housing for Sustainable Communities (2007), to the Density Guidelines (2024) and to the requirements of Section 13.8 (Housing in Urban Areas) of the LCDP.
- 9.3.34. The 3 no. houses proposed are to be located on the south side of the upgraded access off Congress Avenue and will provide for passive surveillance of same.

Required Min. Floor Areas and Standards

- 9.3.35. 3 no. 1-bed 2-person bungalows are proposed (as per Block D) with each having a floor area of 48sq.m which complies with the min. 44sq.m requirement set out in the Quality Housing for Sustainable Communities (2007). The proposed dwellings' main living room areas, aggregate living areas, aggregate bedroom areas and storage areas were also found to be compliant with same (notwithstanding that discrepancies were again noted between the SoA and plans). Having reviewed the proposed floor plans, I am satisfied that the houses are suitably designed and sized to provide for an adequate level of residential amenity to future residents, including in regard to daylight/sunlight access.

Private Amenity Space

- 9.3.36. SPPR2/ Table 5.1 of the Density Guidelines (2024) and Table 13.4 of the LCDP requires that 1-bed houses are provided with a minimum of 20sqm of private open space. Upon review of the plans submitted with the application, I note that the proposed dwellings will be served by c.5-5.5m deep south-facing private open space areas which are well in excess of these requirements (between 30sq.m-34sq.m) which are also capable of being externally accessed.

- 9.3.37. SPPR1 of the same guidelines (in addition to Section 13.8.9.1 (Privacy) of the LCDP) requires a minimum separation distance exceeding 16 metres between opposing windows serving habitable rooms at the rear or side of houses above ground floor level. Upon review of the plans submitted with the application, the proposed development also complies with this requirement.
- 9.3.38. In conclusion, I am satisfied that the dwellings would provide a suitable level of amenity for future residents in compliance with the LCDP and the Density Guidelines (2024).

Public Open Space

- 9.3.39. The PA found the scheme's public open space (POS) to be quantitatively and qualitatively deficient on account of its layout and topography – however, I note that this matter was not specifically cited in their refusal reasoning.
- 9.3.40. ABACUS Special School raise an issue with the fragmentation of the proposed POS and with its non-compliance with NPO13, SDG11 and LCDP Section 13.8.15.
- 9.3.41. The grounds of appeal contend that the scheme's passive and active open spaces cumulatively meet minimum standards and should be considered in the context of the overprovision of COS and with regard to the compliance flexibility provided for under Policy and Objective 5.1 (POS) of the Density Guidelines (2024) and LCDP Section 13.8.15. The appellant also argues that the scheme's open space and landscaping proposals are well considered and suitable for the proposed scheme tenure/ elderly demographic with any concerns about same capable of being addressed via attachment of suitable condition(s).
- 9.3.42. The Density Guidelines (2024) require that a minimum of 10% (justified taking into account existing public open space provision in the area and broader nature conservation/ environmental considerations) and maximum 15% of the net site area is provided as POS, with discretion in respect to mandating same available to the PA in instances where they consider POS provision to be unfeasible. Section 13.8.15 of the LCDP states that public open space provision (both active and passive) in the range of 10-15% of the net site area shall be provided with the quality of same being a determining factor in the quantum of POS that the PA will consider acceptable.
- 9.3.43. The gross site area is given as c. 11,350sq.m with a net developable area of c. 9,960sq.m when the northern embankment, infrastructure and lands in Council

ownership etc. are excluded. The submitted documentation states that 996sq.m of open space is provided which equates to c. 10% of the net developable area.

- 9.3.44. The submitted plans illustrate that the 'active' element of the POS comprises of a c. 165sq.m central rectangular of greenspace (grass lawn with exercise equipment, pergola and seating areas, rain and vegetable gardens located between the cycle lane at edge of access road and Block A) connecting to a further small wedge of POS to the north (which features an area of lawn, chess table and nature play area) and a linear strip of POS to the north-east which runs along between the embankment and the access road, with the three together totalling c. 435sq.m. The 'passive' element of the POS is an area of grassland located on the northern perimeter of the site at the top of the embankment and behind a proposed 1.2m high galvanised steel railing and to the north-east of the site adjacent to the Watery Hill Steps. Its area is given as 195sq.m on the Site Layout Plan (POS) drawing and inexplicably as 851sq.m in the landscape report – both submitted at application stage.
- 9.3.45. The landscape report submitted as part of the grounds of appeal seeks to clarify that the development provides 1,721 sqm (17.3%) of POS is provided in the form of (1) Active Open Space (870 sqm, 8.75%) which is fully accessible and usable, incorporating a range of activities such as play areas, seating, and viewpoints and (2) Passive Open Space (851 sqm, 8.75%) which is integrated into the landscape design and offers significant ecological and visual benefits. The same report also notes that in accordance with LCDP the Contribution in Lieu provision supports the approach of integrating passive areas as part of the overall POS strategy.
- 9.3.46. The Apartment Guidelines (2023) require that designers “*ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year*”. The application is accompanied by a Daylight Analysis and Overshadowing Report which includes an assessment of the proposed communal open space areas against the BRE guidelines and concludes that the proposed development meets the relevant criteria, with at least 50% of amenity spaces within the development receiving in excess of 2 hours sunlight on March 21st. on this basis, I am generally satisfied with their assessment in the context of the quality of amenity spaces serving the proposed development.

9.3.47. On account of its nature, location and visual and physical separation from the scheme, I do not consider it reasonable that the 'passive' element of the POS be considered toward it meeting the min. 10% quantitative POS requirement specified under Section 13.8.15. For much the same reasons, I am also not convinced as to the quality or functionality of the narrow, peripheral area of 'active' POS referred to as a 'nature observatory walk' with projecting seated observation points located due north of the access road and leading from the entrance from Congress Avenue and I consider that the design of some of these features are inappropriate given the concerns around embankment stability (dealt with in Section 9.2 of this report) and the proximity and potential to directly overlook and give rise to overbearance on the An Cairéal apartment scheme below. I also note that this area's functionality would be further undermined by its intermediate location between the 1.2m railing to north and the proposed 140m long and 0.65m high vehicle restraint barrier system to the south (which would also appear to conflict with areas of proposed ornamental and tree planting).

9.3.48. The LCDP states that any development proposing 10% public open space will only be considered acceptable where the PA are satisfied that this space is of a high quality, is functional, and will contribute to creation of a sense of place. For these reasons detailed in paragraph 9.3.47 above, I consider the proposal falls significantly short of the 10% min. POS requirement provided under the Density Guidelines (2024) and would constitute a material contravention of the development plan. Furthermore, whilst it is a brownfield urban infill site where the Density Guidelines (2024) and Section 13.8.15 may allow for some flexibility on the provision of POS, given the dearth of existing POS in the immediate area together with the concerns raised earlier in this report in respect to parts of the scheme's COS and private amenity space provision, I do not consider that it would be appropriate to provide for a relaxation on the qualitative POS requirement in this instance in whole or in part.

Conclusion

9.3.49. Overall, I consider the scheme's failure to deliver an adequate quantum of POS; to fully satisfy the required minimum floor areas and standards of the Apartment Guidelines (2023); and, its excessive proximity to the southern site boundary, when considered together with the issues that are highlighted in Section 9.3 of this report with respect to the proposed one-way traffic system within the site, is symptomatic of the site's unacceptable overdevelopment and I consider its refusal on this basis to be justified.

9.4. Embankment Stability

9.4.1. The PA's refusal reason No. 2 (RR2) was based on their concerns about the impact of the development on the safety and structural stability of the steep northern embankment between the site and the adjoining An Cairéal apartment complex which is located downslope of the site to the north. The PA's PPDS sought specific further information from the applicant to demonstrate how the installation and maintenance of the proposed storm/ attenuation infrastructure would not affect the ground stability of the existing bank to the north of the site or the bank stabilisations works undertaken on the site to the north to facilitate its recent redevelopment.

9.4.2. The grounds of appeal seek to rebut RR2, state that the issues raised could have been dealt with by way of a FI request or by condition and note that the site history illustrates that the matter of embankment stability never previously precluded the granting of permission for the site's development (much closer to slope edge). The appeal is accompanied by additional drawings and documents which provide full details of the slope stabilisation works carried out on the northern embankment and on the nature of the spatial relationship between the proposed site drainage infrastructure and the slope stabilisation features, where an adequate setback is stated to be provided for. On the basis of the information submitted, the appellant contends that the proposal would not have a negative impact on the stability of the embankment and would not endanger public safety or the residential development to the immediate north.

9.4.3. The 'ABP Appeal Engineering Report' submitted notes that there is a steep embankment located to the north of the site and that no works are proposed to same with any proposed works being sufficiently set back from the edge of the embankment (i.e. not at the top or near the edge) so as not to impact the current slope engineering design (drilling of soil nails to reinforce the slope and stabilise the face in conjunction with face netting will ensure the long-term stability of the slope) completed as part of the construction of the An Cairéal apartment scheme permitted under P.A. Ref. 20/275. A series of engineering drawings (dated March 2021) submitted as part of the grounds of appeal are stated to relate to 'Donore Road, Soil Nail Slope Stabilisation Works' and illustrate the nature and extent of the hard engineering works previously undertaken to the slope face in order to stabilise the embankment which include the aforementioned soil nails, nail bearing plates, rockfall net and a retaining wall at the base of the embankment. These drawings are accompanied by a Geotechnical Design Report for

Soil Nail Reinforced Slope (dated March 2020) which sets out additional technical detail on the design of the slope stabilisation works proposed and by an undated Designer's Risk Assessment for Soil Nail Reinforced Slope at Donore Road.

- 9.4.4. The PA in their response to the appeal state that having reviewed the additional information provided by the appellant in respect to the stability of the site's embankment, they note that the information relates to the historic works (carried out under P.A. Ref. 20/275 to facilitate the construction of the An Cairéal development to the north) and does not clarify and/ or document how the proposal subject to appeal could impact safety of the embankment.
- 9.4.5. The third named observer seeks to highlight geological and geotechnical risks posed by the proposal including slope instability, subsidence issues, stress/ vibration impacts and, a lack of adequate details submitted in respect to ground conditions and infrastructure proposed near the slope edge – with related risks for vulnerable children, heritage sites and to the structure and legal/ insurance status of neighbouring properties.
- 9.4.6. The second named observer raises similar concerns and notes that, on this basis, the proposal is non-compliant with various EU Directives on construction site safety/ environmental liability/ habitats/ water/ environmental impact; with various aspects of national policy on climate risk and environmental hazard; with planning and building control legislation; and, that it materially contravenes LCDP Policies ENV18, INF40 and RD21 on geotechnical risk, slope stability and infrastructure in hazard areas and may give rise to slope failure. The observer also states that information contained in the Slope Survey undertaken for P.A. Ref. 18/176 identified the fractured nature of the underlying site geology and recommended further investigations to address slope stability which they state were not completed to the satisfaction of the PA with no updated geological surveys undertaken or monitoring reports being submitted. They also point to a recent subsidence event in July 2021 which it is stated has transformed the profile of the northern slope which is showing evidence of stress having become steeper and prone to greater vegetative and drainage risks.
- 9.4.7. It is clear from the documentation submitted with the grounds of appeal that the appellant is seeking to rely on existing embankment works in the form a soil nail plate slope stabilisation system which were previously completed to facilitate the

development of the An Cairéal apartment scheme on the adjoining site to the north. Having regard to the information on file, I note that this system was installed before a localised subsidence event took place (which is stated to have occurred in July 2021) and that no further site-specific geological or geotechnical investigations works were undertaken to ascertain the current (post-event) condition of the slope in the intervening period, with no further slope stabilisation works or other features (such as retaining walls etc.) being proposed as part of the scheme before the Board. As per the considerations in paragraph 9.5.8 of this report, the proposed upgraded access off Congress Avenue will also require significant work to the east side of the embankment and to the Watery Hill steps/ adjoining lands together with the removal of the existing retaining wall to Congress Avenue to facilitate same – details of which have not been adequately detailed in the submitted documentation with reference to the ground stability issue.

9.4.8. Whilst I acknowledge the appellant's view that embankment stability never previously precluded the granting of permission for the site's development, I also note the significant change in the context of the development site in the intervening period arising from the recent construction of the An Cairéal apartment scheme to the north.

9.4.9. Significant concerns have been raised by the PA and observers in respect to the extent and proximity of proposed surface and subsurface infrastructure (i.e. pipes, cables, water tanks, ESB substation, road, footpaths, floating viewing platforms etc.) to the slope edge with their potential to unacceptably encroach on, overhang, cut into and place additional stress and structural loads directly on the slope edge/ face also being highlighted. Whilst I note the content of the Engineering Report submitted as part of the grounds of appeal, which illustrates how the proposed attenuation tank would be setback c. 7m from the nearest soil nail, I am not satisfied that adequate details have been provided by the appellant to fully address how the installation and operation of other elements of site infrastructure i.e. building foundations, traffic safety barriers, foul/ surface/ watermain service pipes, pedestrian walkways, cycleways, SuDS, landscaping and projecting viewing platforms etc. would affect the ground stability of the existing bank to the north of the site or the bank stabilisation works undertaken on the site to the north to facilitate its recent development. This lack of information is particularly problematic given the findings of the risk assessment submitted as part of the grounds of appeal which gives "*collapse of the slope following the completion of slope stabilisation works*" as a key hazard with the causes including excessive load at the top

of the slope i.e. exceeding those assumed in the design. Therefore, given the lack of sufficient information on file to address the issue of how the proposal is likely to impact on the stability of the northern embankment, I consider a refusal of permission on this basis to be warranted.

9.5. Traffic and Transportation

Access

- 9.5.1. The PA's refusal reason No. 3 (RR3) stated that permission was being refused on the basis of endangerment of public safety by reason of traffic hazard arising from the applicant's failure to submit fully dimensioned drawings in respect to the scheme's, inter alia, junction sightline distances, roadway widths and horizontal alignment as per DMURS and the Recommendation for Site Development Work for Housing Areas (DoHLGH, 1998). I note that Section 13.16 (Transport) of the LCDP states that the standards set out within should be read in conjunction with existing national guidance, including Recommendations for Site Development Works for Housing Areas with Sections 13.16.17 (Entrances and Sightlines) and 13.16.19 (Road Gradients) setting out the requirements for well-designed accesses with unobstructed sightlines etc.
- 9.5.2. The appellant refutes the PA's refusal reasoning and notes that the traffic and transport report and drawings submitted with their application concluded that the proposal would not prejudice traffic conditions locally, would not result in likely traffic safety concerns or hinder access for emergency vehicles. The grounds of appeal set out how the design of the scheme's roads and accesses would not endanger public safety by reason of traffic hazard and provide a series of drawings illustrating why this is the case.
- 9.5.3. The observation made by ABACUS Special School raises the issue of the proposed location of the main access across from that school's sensory garden and related increases in traffic which would undermine both the operation of this amenity and the children's physical, emotional and educational wellbeing.

Congress Avenue - Primary Access

- 9.5.4. The PA considered that the applicant had provided inadequate detail in respect to the design of the upgraded scheme access off Congress Avenue and, on this basis, determined that the proposal would be likely to endanger public safety by reason of traffic hazard (as per RR3). In their response to the appeal, the PA reiterate their view

that the applicant has not provided sufficient information to demonstrate that safe access/ egress can be achieved onto this section of Congress Avenue and clarify that they consider that this existing stretch of road has a substandard width and poor alignment and, on this basis that, the proposal would give rise to traffic hazard and endanger public safety.

- 9.5.5. The first named observers highlight various issues in respect to traffic and road safety and note that the road network in the vicinity of site is narrow, congested and constrained by on-street parking. It is their view that the proposal would further exacerbate local traffic and parking issues and would block local access for emergency services. These concerns are echoed in the observation made by Donal Walsh.
- 9.5.6. The first named observers also consider that the proposed eastern site access of Congress Avenue is substandard in width and located on a 90 degree bend in a narrow road with differing speed limits and poor driver and pedestrian visibility. They raise significant concerns about the public safety risk and traffic hazard that will arise from the proposal and draw attention to the negative effects (traffic, noise etc) on vulnerable road users, the wider community and on children attending the ABACUS Special School. These general concerns are also shared by the second and third named observers who further consider that the proposed access of Congress Avenue is undersized, unsafe and non-compliant with relevant technical guidance. They argue for a local reduction and standardisation of the speed limits on Congress Avenue together with the introduction of new traffic calming and pedestrian safety measures.
- 9.5.7. The site entrance drawings submitted with the grounds of appeal seek to illustrate that a much wider and DMURS compliant site access of Congress Avenue is capable of being achieved subject to various works to the adjoining public carriageway, footpaths, boundary treatments and road verges (including works to realign the Watery Hill steps) and the removal/ repositioning of utility poles, overhead power lines, a retaining wall, pillar and part of the existing embankment bordering Congress Avenue - all in order to create a much wider access which extends further northwards. Taking the existing road geometry into account, the drawings illustrate how junction sight distances of 45m in both directions (measured 2.4m back from road edge) will be achieved at either side of the splayed entrance in accordance with DMURS guidance for roads with a design speed of 50km/hr and with Section 13.16.17 of the LCDP, with larger 6m corner radii

being provided at this junction (the main entrance) in order to accommodate larger vehicles whilst managing the risk to vulnerable road users.

9.5.8. In considering the concerns raised in respect to the endangerment of public safety and the creation of traffic hazard, I note that a DMURS compliant carriageway width of 5.5m (for the easternmost section of the estate's road network i.e. the main access road), a 2m wide footpath, c. 2m wide segregated cycle lane, landscaping, public lighting and road safety signage (reduce speed/ speed limit signs etc.) are all provided as part of the main access road design leading into the scheme (off Congress Avenue). I also note that the new, realigned entrance to the Watery Hill steps will be setback from its current position adjoining the entrance to the site, being accessible directly from the new public footpath into the scheme (on the north side of the upgraded entrance) or via a new uncontrolled pedestrian crossing connecting same to the existing footpath on the opposite side of Congress Avenue. No changes are proposed to the public lighting arrangements or the width of the footpaths on the north or south sides of Congress Avenue. I consider that the aforementioned access upgrades and improvements proposed on the drawings and recommended by the RSA, will considerably enhance both driver and pedestrian visibility and pedestrian safety and, on this basis, I am satisfied that the applicant has satisfactorily demonstrated that safe access/ egress can be achieved onto this section of Congress Avenue in compliance with the LCDP and other relevant technical guidance.

9.5.9. In respect to the concerns raised about uncontrolled parking on the road network in vicinity of site and the proposal's potential to exacerbate same and to constrain emergency access, I would note that the control of parking on public roads is a matter for the PA to address. The TTA submitted with the application concluded that the proposed junction with Congress Avenue is operating well within capacity for all design years up to 2041 for both the morning and evening peak hours with the RSA setting out a number of recommendations to comprehensively address identified in respect to the schemes access arrangements. On this basis, I am satisfied that the proposal would not further exacerbate local traffic, block local access or access for emergency services.

Cherrybrook Drive - Secondary Access

9.5.10. The first named observers seek to draw the Board's attention to the narrow, constrained nature of the internal road network in the Cherrybrook Drive estate and to its existing Y-

junction, which they state is hazardous and incapable of accommodating additional traffic without giving rise to further public endangerment. They also highlight an apparent conflict between landscaping proposals and sightlines at the scheme's junction with Cherrybrook Drive (which they fear will give rise to increased risk of collision), together with risks to pedestrian safety arising from the site's footpaths not tying-in with the existing footpaths in Cherrybrook Drive.

- 9.5.11. The first and third named observers raise a concern about the proposed change in the character of the Cherrybrook Drive estate from a cul-de-sac to a through road which they state will give rise to unauthorised traffic, loss of public realm, safety issues and negative impacts on resident health/ wellbeing and on the enjoyment of their properties.
- 9.5.12. The appellant, in response to RR3, argues that the proposal to provide a secondary vehicular access off Cherrybrook Drive was informed by PAC advice and they note that the site's planning history illustrates that the PA considered site accesses via both Congress Avenue and Cherrybrook Drive to be acceptable in principle. Notwithstanding, the appellant would raise no objection if the Board sought to revert the Cherrybrook Drive access back to a 'filtered permeability' design as originally proposed.
- 9.5.13. I acknowledge the concerns of the observers in respect to the change in the nature of the Cherrybrook estate from cul-de-sac to provide for a public through route to the proposed scheme. The traffic survey of the existing T-junction at Bottle Lane/ Cherrybrook Drive identified that it is operating at a degree of saturation (in 2024) but within capacity in the design year 2041 for the morning peak. However, I note from the TTA that the proposed west vehicular access through Cherrybrook Drive off Bottle Lane to the west) will be restricted by providing a one-way system through the new development with traffic encouraged to use the main junction off Congress Avenue.
- 9.5.14. I note that the potential conflicts between the scheme's landscaping proposals and sightlines/ driver visibility splays (including some at the proposed junction between the scheme and Cherrybrook Drive) are flagged and satisfactorily addressed as part of the suite of recommendations set out under the RSA report. I consider that the matter of the integration of the proposed scheme footpaths with the existing footpaths in Cherrybrook Drive is a minor design tie-in matter that could be addressed by condition where the Board are minded to grant permission.

9.5.15. Overall, having considered the information on file and particularly the findings of the TTA and the Residential Travel Plan together with the mitigatory recommendations of the RSA (signage and public realm improvements etc.) in respect to identified impacts on Cherrybrook Drive, I am satisfied that the proposal to enhance access to the scheme will also provide for greater local permeability and enhanced connectivity between Cherrybrook Drive and Congress Avenue whilst not unacceptably impacting on the amenities of the estate residents.

Road Design

9.5.16. The PA's PPDS sought further information from the applicant in respect to proposed road/ footpath layouts, alignments and widths, junction radii and sightlines and recommended that the applicant consider providing for home zone areas in place of cycle paths. In light of this recommendation, the PA raised concerns about the potential of the scheme's one-way traffic system to give rise to traffic congestion and to hinder emergency access and determined that the scheme road was unacceptable on this basis. These concerns are restated in their response to the first party appeal.

9.5.17. The second and third named observers consider that the proposed internal road layout and design is excessively narrow and non-compliant with relevant technical guidance (i.e. DMURS, TII and RSA standards) and that the proposal would exacerbate existing local traffic/ parking congestion issues and pedestrian infrastructure risks which would significantly impact vulnerable road users and the school community – as per the applicant's own Stage 1 Road Safety Audit. The second named appellant also raises a concern in respect to the quality of the cycling infrastructure proposed.

9.5.18. The appellant states that the scheme's one-way internal traffic system has been carefully designed to optimise land use, lower carbon emissions and to provide for efficient traffic flow, to reduce traffic congestion caused by contra-flow traffic conflicts and to ensure safety and accessibility for all road users. The appellant calls into question the PA's reliance on 1998 guidance re: through-traffic and notes that DMURS (2019) is the relevant technical guidance that should be relied upon when assessing such proposals. It is also stated in the grounds of appeal that due consideration has been given to the PPDS request to provide for a home zone area within the proposal which was found to be unwarranted on the basis that the proposal already makes extensive use of shared

surface areas throughout scheme and the cycle path is an essential mobility option for intended demographic (i.e. elderly/ mobility impaired).

9.5.19. The submitted 'site layout plan (mobility and movement)' provides details on the circulatory arrangements proposed within the scheme with the 'Roads Layout' providing details of an autotrack analysis with this drawing showing conflicts between vehicle tracking for fire tender and cycle lanes, areas of landscaping and potentially with ground floor private amenity areas (north west side of block A). I note that the scheme's own RSA highlights significant issues with the proposed one-way traffic system – most notably a lack of clarity around the direction of the proposed circulation – and with the potential for motorists to attempt to enter the site from the incorrect direction giving rise to significant traffic safety risks on the narrow carriageway. In this regard the TTA report states that provision is made for one-way traffic on the western section of the site with 2-way traffic movement possible at the access from Congress Avenue. The RSA also raises an issue with access to areas of parking within the site, the provision of insufficient aisle widths for safe two-way access and egress and related risks to pedestrian safety within the scheme.

9.5.20. Notwithstanding the internal road junction layout drawing submitted as part of the grounds of appeal, given the serious concerns raised in the RSA which are outlined above (many of which do not have clear recommended mitigations) together with the demonstrable ambiguity which surrounds the scheme's internal road design, I would have significant concerns that the design of same as proposed could give rise to unacceptable traffic hazard and endanger public safety within the scheme. I recommended to the Board a refusal of permission on this basis.

9.6. Impact on European Sites

9.6.1. The PA's refusal reason No. 4 cited concerns that the proposal's proximity to the River Boyne and Blackwater SAC had the potential to adversely affect the integrity of its conservation objectives. In their response to the appeal, the PA seek to clarify that their decision to refuse on this basis reflected lack of sufficient information on file at that time and, in that regard, I note that their planning report highlights concerns in respect to an indirect hydrological link to the SAC arising from site's surface water discharges, storm and attenuation infrastructure.

- 9.6.2. In respect to RR4, the appellant considers that the PA could have sought FI on matters relating to surface-water discharge and storm/ attenuation infrastructure in order to complete a comprehensive AA determination on the direct, indirect and in-combination effects of the proposal on the SAC and they state that the Board has been provided with additional information on same by way of an Ecological Response Statement.
- 9.6.3. The third named observer is of the view that the proposal is non-compliant with the EU Habitats, Birds, Water Framework, Environmental Impact Assessment and Strategic Environmental Assessment Directives and with SEA of the LCDP. Their contention is based on the proximity of the site which they describe as a long undisturbed inland ecosystem which contains rare flora and fauna) to the River Boyne SAC with the potential for the scheme to give rise to light and noise pollution and other disturbances which may impact wildlife, the ecosystem and bird species using the SAC.
- 9.6.4. The scheme's surface water discharges and storm/ attenuation infrastructure are considered in detail subsequently in Section 9.5 of this Inspector's report and are found to be acceptable. On this basis, I am satisfied that I have sufficient information before me to enable the undertaking of a screening for appropriate assessment – see Section 10 and Appendix 2 for further details of same. Having undertaken this screening, I have concluded that the proposed development individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on River Boyne and River Blackwater SAC (Site Code: 002299) or on any other European Sites, in view of these sites' Conservation Objectives, and Appropriate Assessment (and submission of an NIS) is not therefore required.

9.7. Other

Ecological Impact/ Natural Heritage

- 9.7.1. The second named observer raises concerns in respect to the removal of mature trees, hedgerows and other vegetation and in regard to related habitat loss and fragmentation of green/ ecological corridors and wildlife pathways. It is also their view that the scheme does not provide for adequate vegetative buffers and does not align with the following: RSES 2019-2031; Biodiversity Guidelines for Planning Authorities (2013); the NBAP; the AIPP; UN SDGs 11 and 13 (sustainability & climate action); and, LCDP PO NHB6/ Section 4.4 (LECP).

- 9.7.2. The third named observer also raises concerns about planned mature tree removal and notes that they contend that an updated ecological assessment is required. Ultimately, they seek that the proposal's ecological, hydrological and geological impacts are assessed together.
- 9.7.3. The appellant seeks to clarify that existing vegetation within the site will be retained by the proposed landscape plan with existing and proposed infrastructure providing a wildlife corridor linking green infrastructure assets in the surrounding area. In this regard, I note that the landscaping details submitted state that 'biodiversity net gain' (via the use of native species and plants for pollination which enhance local biodiversity/ create habitats etc.) is one of the project's key design principles.
- 9.7.4. The ecological statement submitted at planning application stage, which was prepared following a desktop assessment and a walkover field survey of the site to ascertain its habitats and flora/ identify signs of mammal activity or other protected fauna, states that the site possesses only a few immature self-seeded trees and a lack of mature trees and native vegetation. The report goes on to conclude that the site has a low baseline ecological value with minimal wildlife habitats (small scale microhabitats of limited ecological value only), no significant ecological features, poor biodiversity and limited connectivity to green infrastructure. The habitat assessment provided in the report (dated November 2024) tallies with the site conditions that I observed during my site inspection, and, on this basis, I do not consider that an updated ecological assessment is required. I am also satisfied that the findings of the report address the concerns raised by the observers with regard to the removal of mature trees/ vegetation and related habitat loss and impacts on wildlife/ ecology.
- 9.7.5. Having regard to the conclusion of the ecological statement detailed above and having considered the points raised by the observers in respect to the proposal's non-compliance with the related local, regional, national, European and UN policy and guidance detailed in, inter alia, paragraph 9.7.1 of this report and, I am satisfied that there is no issue in this regard. With respect to the proposal's compliance with EU Directives on water, habitats/ birds and environmental impact and the requirement for cumulative assessment, these matters are dealt with under Appendices 1-3 and Sections 5.4, 6 and 7 of this Inspector's Report respectively.

Archaeology

- 9.7.6. The PA in their report highlighted the potential for unknown pre-historic features on the site (given its location) and sought that an Archaeological Impact Assessment (AIA) be undertaken by the applicant in line with the advice received from the DoHLGH. This submission noted that the archaeological assessment carried out included the results of a desk-based assessment, sought further consultation with the design team and project archaeologist together with the PA and, that an AIA be undertaken and submitted by way of further information (FI) given the potential for the development to physically and visually impact on the site and setting of the recorded monument LH024-041009: Castle motte and bailey and on any archaeological remains within the site.
- 9.7.7. The second named observer raises concerns about the fact that no on-site archaeological survey had been carried out despite the site's proximity to Drogheda's medieval town walls (re: compliance with LCDP PO HER17 & Section 11.6) and seeks that an updated archaeology assessment be undertaken.
- 9.7.8. The appellant states that they were not given the opportunity to respond to the issues raised by the PA/ DoHLGH by way of FI and they note that an archaeological impact assessment was prepared and submitted as part of the application and that site was determined to be located outside zone of archaeological potential/ notification/ the Drogheda town walls. The appellant also states that project archaeologist engaged with DoHLGH (re: their archaeological concerns) but that this consultation did not lead to the resolution of all outstanding issues due to appeal related time constraints involved. No details of this pre-appeal stage consultation/ correspondence with the DoHLGH are provided with the grounds of appeal.
- 9.7.9. Following receipt of the first party appeal, the Board referred the file to the Development Applications Unit of the DoHLGH on the 25/03/2025. No response was subsequently received from them.
- 9.7.10. I note the concerns raised by the PA, the DoHLGH and the observers and the rebuttal of same provided in the grounds of appeal. Having considered the concerns raised by the observers and consulted LCDP Appendices 9 (Zones of Archaeological Potential) and 10 (Walled Towns) which confirm that the site is situated outside Drogheda's Zone of Archaeological Potential and its Town Walls, I consider that it is highly unlikely that the proposal would impact same. In respect to the potential for the proposal to physically impact on subsurface archaeological remains related to recorded monument LH024-

041009: Castle motte and bailey, which the Historic Environment Viewer (<https://heritagedata.maps.arcgis.com/> accessed 26/05/2025) shows is located at the east end of Mount St. Oliver and c. 300m from the appeal site, I note the concerns raised by both the PA and the DoHLGH which remain unresolved. Whilst it is regrettable that this matter was not resolved prior to appeal stage, having regard to the zoning of the site and to the form of development proposed (which does not seek to provide extensive basement areas etc.), I do not consider that it would warrant a refusal of permission and I consider it appropriate that, where the Board are minded to grant permission for the proposal, a **condition** be attached to require the developer to employ a suitably qualified archaeologist carry out pre-development archaeological testing following consultation with the National Monument Service.

Parking

- 9.7.11. The PA found the scheme's parking provision to be generally compliant with the requirements of the Apartment Guidelines (2023). However, they determined the scheme's EV parking provision to be non-compliant with LCDP requirements under Section 13.16.9 (which requires that applicants shall strive to provide these charging points in a minimum of 20% of the total spaces) but did not include this matter in their refusal reasoning.
- 9.7.12. The first named observer raised concerns about the potential for the development to give rise to overspill parking and the limited capacity in Cherrybrook Drive to accommodate same.
- 9.7.13. The third named observer considers that the provision made for parking within the scheme is inadequate and will give rise to overflow parking issues in wider area, increasing traffic risks for the adjacent ABACUS school, obstructing sightlines during drop-off times and undermining emergency access.
- 9.7.14. The appellant is of the opinion that the concerns raised in respect to parking are unwarranted on account of the scheme's unit tenure and demographic profile – factors which they contend will lessen demand for parking.
- 9.7.15. Having visited the site and its surrounds, I note that each of the adjoining properties in the Cherrybrook Drive estate have in-curtilage parking with additional on-street parking for multiple vehicles provided for along their road frontage. Existing (and proposed) on-street parking takes place on estate carriageways that are taken in charge by LCC and,

as such, I consider that this is a matter for the PA to resolve having regard to the fact that the proposal provides for car parking levels which comply with applicable policy requirements set out in the Apartment Guidelines (2023) and maximum standards set out under Section 13.16.12 of the LCDP, and to the to the locational characteristics of the site and its proximity to Drogheda town centre and public transport services.

- 9.7.16. Furthermore, having considered the LCDP policy guidance around charging infrastructure for electric vehicles, whilst the scheme does materially contravene the development plan's EV parking policy, I consider that this minor issue could be addressed by condition.

Water Supply, Drainage and Flood Risk

- 9.7.17. The PA determined that the site was not at fluvial flood risk and found the scheme's water supply and foul drainage arrangements to be satisfactory having regard to the submission from UE. However, they did consider that inadequate details had been provided on surface water management. This gap in the information provided formed the basis for the PA's uncertainty in respect to the potential impact on European Sites arising from scheme (addressed in Appendix 2 of this report).
- 9.7.18. The third named observer also raised an issue with the detail provided in respect to surface water management and raised further concerns about WFD compliance; the pluvial flooding that may arise on account of the proposed removal of a historic drain under Congress Avenue; the lack of detail provided in respect to the nature and timing of the proposed drainage infrastructure upgrade works; and, about the viability of the proposed water supply arrangements given the legal ownership dispute.
- 9.7.19. The second named observer queried the lack of detail provided on the nature and timing of works to provide new scheme sewer line as per UE requirements and the sizing of the water supply pipes.
- 9.7.20. Both the second and third named observers raised the issue of inadequate drainage planning increasing the risk of slip hazard – especially for vulnerable community members – with the former highlighting the lack of detail on drainage design for internal roads and tie-ins, the risk of ponding at key pedestrian routes and the likely impact of the removal of an adjoining retaining wall (to Congress Avenue) on existing drainage arrangements.

9.7.21. The grounds of appeal note that additional documents and drawings have been provided in respect to the nature of the spatial relationship between the proposed site drainage infrastructure and the slope stabilisation features.

Foul Drainage and Water Supply

9.7.22. I note from the scheme's watermain layout that this supply will come from a new connection to an existing UE watermain on Congress Avenue whilst the scheme's foul and storm water networks are proposed to outfall to Cherrybrook Drive to the north-west of the site, where a proposed 225m diameter stormwater sewer will be provided to facilitate same in order to connect to an existing chamber to the north of No. 50. I am aware that the applicant's reliance on this area is contested by the observers, and the matter of legal rights/ ownership is dealt with in Section 9.7 of this report.

9.7.23. Whilst I acknowledge the queries and concerns raised by the observers in respect to the site's foul and water supply infrastructure, I consider that the nature and extent of the scheme's proposed service infrastructure in this regard is a matter for determination by UE as the competent authority. In respect to the uncertainty around the timing, scale and local impact of works to provide new scheme sewer line as per UE requirements, I consider that this matter can be addressed via the attachment of a planning condition requiring the developer to prepare a Construction Environmental Management Plan (CEMP), should the Board be minded to grant permission. The proposal's compliance with the WFD is addressed under Section 7 and Appendix 3 of this report.

Surface Water Management

Whilst I am satisfied that the site is not at risk of fluvial flooding, the observers have highlighted the potential pluvial/ surface water flood risk within and adjoining the site – with specific concerns raised about how works to Congress Avenue (i.e. the removal of a historic drain and retaining wall) will affect local drainage and give rise to flooding and slip hazard. In this regard, I note that the PA are competent authority in respect to surface water/ storm drainage and that the PA's PPDS did not highlight any deficiencies in respect to the proposal's surface water management strategy, which comprises of an underground stormwater attenuation tank below an area of open space to the north of Block A (which would connect by gravity to an existing surface water sewer on the north side of Cherrybrook Drive) together with various SuDS measures such as green roofs, soakaway, permeable paving to access roads and parking areas and tree pits and rain

gardens adjacent to areas of parking/ the carriageway (i.e. other than the implications of the siting of the scheme's drainage infrastructure relative to the embankment (matter considered in Section 9.4 of this report)). Having considered the detail of the scheme's own drainage design (i.e. provision of SuDS measures to mimic natural drainage conditions) against the policy requirements of the LCDP (i.e. as per Sections 10.2.5 (Sustainable Drainage Systems) and 13.20.4 (Sustainable Drainage Systems' (SuDS))), I am satisfied that it is compliant and would not give rise to an unacceptable risk of surface-water flooding and related hazard.

- 9.7.24. In respect to the issue of local drainage related slip hazard, I note that this issue is addressed as part of the recommendations of the RSA which would be conditioned in the event of a grant of permission. In respect to the concerns raised about local pluvial flood risk (outside the site) and the impact on a historic drain under Congress Avenue on account of the works and the proposed removal of a retaining wall between Congress Avenue and Mount St. Oliver, I consider that this is a matter for the PA as competent authority for surface water management and that it can be addressed as part of the CEMP.

Building Control

- 9.7.25. The second and third named observers are concerned that the proposal is non-compliant with building control legislation in relation to its structural stability, with the former highlighting the developer's legal and insurance liabilities in respect to public safety in this regard. Whilst the issue of the proposal's impact on the structural stability of the embankment on the north side of the site is critical to the planning and environmental matters under consideration (as per Section 9.4 of this report), the issue of general compliance with Building Regulations will be evaluated under a separate legal code and need not concern the Board for the purposes of this appeal. I am also of the view that insurance matters (relating to subsidence, property damage and legal liability claims etc) are civil matters and therefore not a relevant consideration for the Board.

Compliance with LECP/ Community Facilities

- 9.7.26. The observers are of the view that the proposal is non-compliant with the Local Economic and Community Plan (LECP) 2016-2022 and fails to provide for an adequate

level of community space/ recreation infrastructure or for a community infrastructure assessment.

- 9.7.27. I note that the LECP is a high level document with a series of strategic and community goals and, having reviewed these, I am satisfied that the proposal does not contravene same. A Community, Social and Cultural Infrastructure Audit report was submitted with the application in compliance with PO SC11 and this report concluded that there are a significant quantity and variety of social services and facilities within the study area that would support the proposal. The proposed scheme also includes a community meeting room (34sq.m) in addition to external, inter-generational recreation infrastructure and landscape/ amenity spaces. This is considered to be acceptable.

Development contributions

- 9.7.28. The matter of how development contributions generated by the proposal should be apportioned was raised by observers. This matter falls under the remit of the local authority and thus, need not concern the Board for the purposes of this appeal.

Property Value Depreciation

- 9.7.29. I note the concerns raised by the observers in respect to the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that it would adversely affect the value of property in the vicinity.

Procedural Issues

- 9.7.30. The third named observer seeks to draw the Board's attention to certain issues with the information provided in respect to the proposal (i.e. drawing inconsistencies, drafting errors and insufficient contact information for the applicant and their team) and they note that, given the proposal's proximity to the ABACUS Special School (which they describe as a national special educational resource), the applicant should have undertaken early formal consultation with relevant stakeholders and should have not have submitted their application during the school holidays. Similarly, the second named observer states that the PAC meetings between the PA and the applicant failed to address community concerns and did not provide for meaningful public engagement

and/ or consultation and they object to the applicant's retroactive provision of key information on the proposal via the appeals process.

9.7.31. The appellant raises various concerns about the PA's prescriptive approach to the assessment of the scheme, in relation to nature, extent and direction of the PAC advice given and, in respect to their failure to seek FI to clarify matters raised by the DoHLGH and by the PPDS.

9.7.32. Whilst I note the concerns raised by the appellant and the observers, I note that the PAC process is not required to be subject to public consultation and that PAC is non-binding on the PA. In respect to the PA decision not to seek FI, I am satisfied that the appeal process has given the appellant the opportunity to clarify matters in the appropriate manner. In respect to the timing of the submission of the application, this is at the sole discretion of the applicant. Furthermore, whilst generally encouraged, there is no statutory requirement for an applicant to consult with the community/ stakeholders prior to lodging their application and I note that, as per the advice given on the statutory notices, the public had 5 weeks after the application was lodged to make their submissions and observations on the application.

Impact on Watery Hill Steps

9.7.33. The scheme's potential to impact on the 'Watery Hill Steps' which run to the immediate north-east of the site is a significant issue for the observers. The first named observer raises concerns about the privatisation of the steps and the implications of the proposal for public access to the steps, for public safety and for this important pedestrian connection to the town centre and bus station. The third named observer also raises concerns about the removal/ privatisation of the steps, the implications of same for compliance with DMURS, NPO27 (sustainable mobility), LCDP POs HER19 and HER21 (no record of same in LCDP as noted in Section 8.3 of this report) and planning/ heritage legislation, and about how pedestrian accessibility to ABACUS Special School from the bus station would be undermined. The second named observer argues that the impact of the removal of this public pathway on the area is a significant issue which has not been given due consideration relative to these works non-compliance with LCDP PO MOV18 (improving county rail services) and with planning and landscape legislative requirements.

9.7.34. The grounds of appeal seek to clarify that the proposal will not give rise to the removal of or a restriction in access to the Watery Hill steps.

9.7.35. I acknowledge the steps' cultural and historical significance to the area and their importance as a key pedestrian route linking Lagavooren to the town core of Drogheda and I note that their treatment was an important consideration in the assessment of previous applications on the site. Having reviewed the information on file, I note that the steps are, in part, included within the application red line area and that access to the steps is proposed to be upgraded and moved further northwards in order to facilitate the provision of a larger, upgraded junction (to the scheme) off Congress Avenue. Notwithstanding these proposed works, I am satisfied that there is no proposal to wholly demolish or privatise the steps and that the concerns raised in this regard are unfounded. It is also clear from the information on file that the steps will remain in the ownership, control and management of Louth County Council. Having said that and having regard to the issues raised in the RSA in respect to the works to the steps and their immediate environment, I do consider that the matter of the alteration of the steps should be addressed as part of a CEMP where a grant of permission is forthcoming. This matter is a pedestrian/ public safety matter is considered further under Section 9.5 of this report.

Legal Issues

9.7.36. The observers seek to bring to the Board's attention to issues in respect to the legal ownership of a portion of the appeal site (on its south-west side) and to the applicant's lack of legal entitlement to develop and use this land to deliver a new vehicular access from Cherrybrook Drive. The first named observers state that they are the owners of the disputed portion of the application site (a 1m wide strip of ground on west side of shared boundary adjacent to No. 25 Cherrybrook Drive) which does not form part of the public road in Cherrybrook Drive, is not owned by the applicant and is not taken in charge by Louth County Council. As detailed in Section 8.3 of this report, their submission is accompanied by correspondence from the Property Registration Authority (PRA), various statements from past and current residents of Cherrybrook Drive in respect to the south-western boundary wall and by photographs of the wall taken over the period 2008-2025.

- 9.7.37. The PA acknowledge the ongoing legal dispute between the applicant and the residents of Cherrybrook Drive in their report and whilst they did not consider it a validation issue, they noted that the matter was likely to undermine the scheme's access proposals. In this regard, I note that the PPDS sought evidence of written agreement(s) with 3rd party landowners in respect to the construction and connection of the stormwater sewer system (on the north side of Cherrybrook Drive) as part of their recommended FI (18/01/2025).
- 9.7.38. In respect to the legal ownership issues raised by the PA and third parties, the appellant is of the view that Section 34(13) of the Planning and Development Act (2000), which states that a person shall not be entitled solely by reason of a permission under this section to carry out any development, would protect the rights of neighbouring landowners in this regard.
- 9.7.39. I note from my site inspection that the public road in this portion of Cherrybrook Drive ends c. 1m from the boundary wall to the appeal site with this intervening area featuring planters and trellises etc. It is this intervening road verge area that is subject to legal dispute between the applicant and the observer with the latter lodging an objection to the former seeking to a first registration of this land with the PRA. Such matters are civil matters to be resolved between the parties, having regard to the provisions of Section 34(13) of the Planning and Development (2000) as amended.
- 9.7.40. I also note that this same matter was raised in the context of the preceding appeal under ABP PL54.223302 and that the planning inspector noted in that case that a grant of planning permission does not confer legal rights to the ownership of land and on that basis considered it reasonable to continue to assess the application and the access as proposed. By the same reasoning, I consider it appropriate to continue my assessment of the proposal in this instance.

Building Lifecycle Report

- 9.7.41. The PA considered the Building Lifecycle Report submitted with the application to be unacceptable on basis of non-provision of detail on long-term running and maintenance costs per residential unit.
- 9.7.42. The appellant rejects the PA's critique of the report and notes that it was prepared in compliance with requirements of Sections 6.10-6.13 of Apartment Guidelines and Multi-Unit Development Act (2011).

- 9.7.43. I note that lifecycle reports are dynamic documents which get updated in response to changes to the scheme design and I am satisfied that the matter of the provision of a more bespoke report could be addressed by condition where the Board are of the view that this is necessary.

10.0 **AA Screening**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the following European sites: River Boyne and River Blackwater SAC (Site Code: 002299), Boyne Estuary SPA (Site Code: 004080), River Boyne and River Blackwater SPA (Site Code: 004232) and Boyne Coast and Estuary SAC (Site Code: 001957) or any other European site, in view of these sites' Conservation Objectives, and Appropriate Assessment (and submission of an NIS) is not therefore required.

This determination is based on:

- The nature and scale of the development and lack of impact mechanisms that could significantly affect a European site.
- Distance from and weak, indirect connections to the European sites.

I refer the Board to Appendix 2 of this report – Screening for Appropriate Assessment.

11.0 **Recommendation**

I recommend that outline permission be REFUSED for the reasons and considerations set out below.

12.0 **Reasons and Considerations**

1. It is considered that the proposed development, by reason of its siting, height, visual prominence and elevated position directly above the An Cairéal apartment complex (adjoining site to the north), would give rise to unacceptable overbearance on (and to a lesser extent, overlooking of) this property and would seriously injure the visual

amenities of the area which would not be in compliance with the site's A1 zoning objective. It is also considered that the proposed development would give rise to unacceptable overbearance on and diminution in the visual and residential amenities of the rear adjoining properties within Marian Park to the south by reason of the inadequate separation distance provided between Block B and the shared boundary/ their private amenity spaces. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of its inadequate qualitative and quantitative provision of private open space which would not be in compliance with Policy and Objective 5.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (DoHLGH, 2024) or with Section 13.8.15 of the Louth County Development Plan 2021-2027 and, by reason of its failure to meet the required minimum floor areas and standards recommended in the Sustainable Urban Housing: Design Standards for New Apartments (DoHLGH, 2023) in respect to private open space, storage, unit aspect the sizing of bedrooms and living spaces, would constitute the overdevelopment of this site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. In the absence of sufficient information, including technical details on the full impact of all proposed site infrastructure and services required in respect of the proposal on the structure and stability of the existing northern embankment, it is considered that the proposed development would give rise to an unacceptable risk to public health and safety and to adjoining properties. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
4. It is considered that the proposed development would endanger public safety by reason of traffic hazard on the basis of ambiguities surrounding the scheme's internal one-way road network design and carriage-way widths and issues with same identified in the Road Safety Audit submitted with the application. The proposed

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

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

Emma Gosnell

Planning Inspector

9th July 2025

Appendix 1

Form 1 EIA Pre-Screening

Case Reference	ABP-322008-25
Proposed Development Summary	<p>Permission for the development of 71 no. residential units at Congress Avenue, Lagavooren Townland, Drogheda, Co. Louth, a site of circa 1.135 hectares. The proposed development will comprise the construction of 71 no. residential units as includes: Block A - 2-4-storey apartment block (3,006 sqm -31 no. units), of 12 no. 1-bed and 19 no. 2-bed units; Block B - 3 storey duplex units (1,475 sqm - 14 no. units) of 7 no. 1-bed units and 7 no. 3-bed units; Block C - 3- to 4-storey apartment block (1,740 sqm - 23 no. units), of 17 no. 1-bed units and 6 no. 2-bed; and Block D - a terrace 3 no. 1-bed houses at single-storey height (176 sqm). The proposed development will also provide: 1 no. community facility (circa 34 sqm); 37 no. car parking spaces including accessible parking; 164 no. secure bicycle parking spaces; public open space totalling 1,721 sqm; communal open space totalling 836 sqm; private garden / amenity areas; all associated hard and soft landscaping, play areas, boundary treatments, roads, footpaths, cycle lanes, plant service spaces, and bin storage; 1 no. ESB sub-station; and all other ancillary works above and below ground. Primary access will be provided via Congress Avenue, with secondary access via Cherrybrook Drive.</p>
Development Address	Congress Avenue, Lagavooren Townland, Drogheda, Co. Louth
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.

landscape including those involving the extraction of mineral resources)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2)	<p>Part 2, Class 10(b)(i) Infrastructure – dwelling units – 500 units. Proposal is for 71 no. dwelling units.</p> <p>Part 2, Class 10(b)(iv) - Urban development – 10 hectares (built-up area). Site is 1.135ha.</p>

<p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	
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<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input checked="" type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

Case Reference	ABP-322008-25
Proposed Development Summary	Construction of 71 housing units, comprising 68 apartments and 3 houses and all associated site works.
Development Address	Congress Avenue, Lagavooren Townland, Drogheda, Co. Louth
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 (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The development is for 71 no. housing units (mix of houses and apartments), comes forward as a standalone project, and it does not involve the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.</p> <p>It poses a potential risk of localised accident/ to human health and safety. This matter is dealt with in Section 9.4 of the Inspector's Report.</p>
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<p>The development is situated on a brownfield, infill site and surrounded by predominantly residential land uses (relatively abundant as per the LCDP Core Strategy) with some institutional uses. The An Cairéal residential apartment complex is located to the immediate north of the site at the base of a steep embankment that delineates the sites.</p> <p>The site is located to the west of Congress Avenue (north of Marian Park and east of Cherrybrook Drive) in the townland of Lagavooren in the southern environs of Drogheda town in Co. Louth.</p> <p>The development site is currently accessed off Congress Avenue (to the east) and is proposed to also be accessed from the Cherrybrook Drive estate to the west.</p> <p>The following European sites are also located in close proximity to the site:</p> <ul style="list-style-type: none"> - River Boyne and River Blackwater SAC (Site Code: 002299) c. 250m - Boyne Estuary SPA (Site Code: 004080) c. 2km

	<ul style="list-style-type: none"> - River Boyne and River Blackwater SPA (Site Code: 004232) c. 2.9km - Boyne Coast and Estuary SAC (Site Code: 001957) c. 3.3km <p>The potential for pathways these European sites is considered in Section 10 of the Inspector's Report.</p> <p>The River Boyne is located c. 250m to the north of the site, the Millmount Tower and complex (a Protected Structure, Architectural Conservation Area and designated national monument under ID: LH024-041009) is located c.300m to its north-east, whilst the 'Watery Hill Steps' are located to the site's immediate east.</p> <p>Whilst the development is generally removed from sensitive natural habitats, dense centres of population and designated sites and landscapes of identified significance in the County Development Plan, the site's relationship with the River Boyne, Millmount Tower and Complex (and related archaeological remains) and the Watery Hill Steps are dealt with as part of the Planning Assessment in the main body of the Inspector's Report.</p>
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).	Having regard to the nature of the proposed development, its location removed from sensitive habitats/ features; likely limited magnitude and spatial extent of effects; and, absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

Form 3
EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP-322008-25	
Development Summary	<p>Permission for the development of 71 no. residential units at Congress Avenue, Lagavooren Townland, Drogheda, Co. Louth, a site of circa 1.135 hectares. The proposed development will comprise the construction of 71 no. residential units as includes: Block A - 2-4-storey apartment block (3,006 sqm - 31 no. units), of 12 no. 1-bed and 19 no. 2-bed units; Block B - 3 storey duplex units (1,475 sqm - 14 no. units) of 7 no. 1-bed units and 7 no. 3-bed units; Block C - 3- to 4-storey apartment block (1,740 sqm - 23 no. units), of 17 no. 1-bed units and 6 no. 2-bed; and Block D - a terrace 3 no. 1-bed houses at single-storey height (176 sqm). The proposed development will also provide: 1 no. community facility (circa 34 sqm); 37 no. car parking spaces including accessible parking; 164 no. secure bicycle parking spaces; public open space totalling 1,721 sqm; communal open space totalling 836 sqm; private garden / amenity areas; all associated hard and soft landscaping, play areas, boundary treatments, roads, footpaths, cycle lanes, plant service spaces, and bin storage; 1 no. ESB sub-station; and all other ancillary works above and below ground. Primary access will be provided via Congress Avenue, with secondary access via Cherrybrook Drive.</p>	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	<p>Planning authority determined that proposal falls into 1 no. class specified in Part 2, Schedule 5 of the Planning and Development Regulations 2001 (as amended) – (10) infrastructure projects. They were satisfied that the proposed</p>

		development is not likely to have significant effects on the environment and it considered that EIA and the preparation of an EIAR was not required for this project.
2. Has Schedule 7A information been submitted?	Yes	As per EIA Screening Report (November 2024) submitted with the application.
3. Has an AA screening report or NIS been submitted?	Yes	EIA Screening Report (November 2024) and Stage 1 AA Screening Report (October 2024) submitted with the application.
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	Proposal is for a residential development of 71 no. units
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	No	SEA, AA and SFRA were undertaken by the planning authority in respect to the preparation of the Louth County Development Plan 2021-2027.

B. EXAMINATION	Yes/ No/ Uncertain	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant)</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p> <p>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
<p>This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith</p>			
<p>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</p>			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No – The subject development is a housing development located on zoned lands within a residential area. Whilst located to rear of 2-storey housing on Marian Park, Congress Avenue and Cherrybrook Drive it also adjoins apartment complexes to the north along</p>	<p>n/a</p>	<p>No</p>

	<p>Donore Road and therefore, it will not be significantly different to the character or scale of the receiving environment.</p> <p>From an environmental perspective, the nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development See also Sections 9.1 and 9.2 of the Inspector's Report for further details in this regard.</p>		
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes –</p> <p>The proposed development will change the brownfield status of this land by bringing it into residential development.</p> <p>The proposed development will require site works/ excavations and the construction of a new housing development in accordance with the site's residential zoning. This change in land use would necessitate some localised cut and fill in order to provide appropriate levels throughout the development. On this basis, the topographic changes within the site would be negligible. The proposal also necessitates works to the eastern portion of the existing northern embankment (i.e. to Watery Hill Steps) to facilitate a widened access off Congress Avenue.</p> <p>Site enabling works, construction and operation may have potential localised impact on topography of site as it relates to neighbouring site to north (An Caireal scheme).</p> <p>Section 9.4 of the Inspector's Report outlines concerns in respect to the impact of the development on the stability of the existing embankment to the north of the site and the proposal's topographic</p>	n/a	Uncertain

	<p>impact in this regard is uncertain. Refusal is recommended on this basis.</p> <p>There are no waterbodies on or immediately adjoining the site. Given the separation provided from the Boyne River it is not anticipated that any negative impacts will result.</p>		
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>No –</p> <p>Infill proposal involves reuse of residentially zoned brownfield land in an urban area which is not in short supply as per the Core Strategy.</p> <p>Construction materials will be typical for the type of urban development proposed.</p> <p>The loss of natural resources as a result of the redevelopment of the site are not regarded as significant in nature.</p> <p>Once operational, proposal will connect in with existing service infrastructure in locality and incorporates environmental sustainability measures in its design.</p>	n/a	No
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Uncertain –</p> <p>Demolition/ site clearance/ construction materials will be typical for the type of development proposed.</p> <p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature.</p> <p>No operational impacts in this regard are anticipated.</p>	<p>CEMP and CDRWMP as pre-commencement condition(s) – the implementation of the standard measures outlined in same would satisfactorily mitigate potential impacts.</p>	No


<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes –</p> <p>Standard construction activities will require the use of potentially harmful materials, such as fuels and other similar substances, and will give rise to waste for disposal.</p> <p>The use of these materials would be typical for construction sites.</p> <p>Noise and dust emissions during construction are likely.</p> <p>Such construction impacts would be local and temporary in nature.</p> <p>Operational waste would be managed through a waste management plan to obviate potential environmental impacts.</p> <p>Other significant operational impacts are not anticipated.</p>	<p>CEMP, CDRWMP and CNMP as pre-commencement condition(s) – the implementation of the standard measures outlined in a same would satisfactorily mitigate potential impacts.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Uncertain –</p> <p>Potential for contaminants associated with standard construction activities (i.e. building waste materials, machine oil etc.). Any potential impacts would be localised and temporary in nature and no significant risks are identified.</p> <p>The operational development will connect to mains services.</p>	<p>Operation of standard construction management measures outlined in a CEMP and a CDRWMP will satisfactorily mitigate emissions from spillages etc. during construction.</p> <p>Potential local contamination risks during the operational stage could be suitably mitigated by the application of standard drainage mitigation measures such as SuDS.</p>	<p>No</p>

1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	Uncertain – There is potential for the construction activity to give rise to noise, increased lighting and vibration emissions. Such emissions will be localised and short term in nature.	CEMP and CNMP as pre-commencement condition(s) – the implementation of the standard measures outlined in same would satisfactorily mitigate potential impacts.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Uncertain – Construction activity is likely to give rise to localised dust emissions and material spillages. Such construction impacts would be temporary and localised in nature.	CEMP and CDRWMP as pre-commencement condition(s) – the implementation of the standard measures outlined in a same would satisfactorily mitigate potential impacts.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	Uncertain – No significant risk of major accidents given that there are no Seveso / COMAH sites in the vicinity of this location. However, there is uncertainty about the localised geotechnical risk arising from the project's unknown impact on the stability of the site's northern embankment and related risks to human health and safety and to adjoining property. A refusal is recommended on this basis as per Section 9.4 of the Inspector's Report.	n/a	Uncertain
1.10 Will the project affect the social environment (population, employment)	Yes – Increase in local population and housing supply. Potential increase in and employment during construction and operational phases.	n/a	No
1.11 Is the project part of a wider large scale change that	No –	n/a	No

could result in cumulative effects on the environment?	Standalone brownfield infill development site which is located on residentially zoned land as per the Development Plan's Core Strategy (which was subject to SEA, AA and SFRA). The principle of development is generally in accordance with the LCDP.		
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ul style="list-style-type: none"> - European site (SAC/ SPA/ pSAC/ pSPA) - NHA/ pNHA - Designated Nature Reserve - Designated refuge for flora or fauna - Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	No – Sensitive ecological sites are not located on site. The nearest European sites are listed in Section 10 of this report. The proposed development would not result in significant impacts on these sites. Annex II habitats or habitat suitable for protected species, including plants, were not found on site during ecological surveys.	n/a	No
2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site,	No – Existing habitats, flora and fauna (including protected species, such as bats) have been surveyed as part of the preparation of the submitted Ecological Impact	n/a	No

for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?	<p>Assessment. This assessment did not raise any issues of concern.</p> <p>Biodiversity measures in the form of additional planting native planting are anticipated to be of benefit to nesting and foraging birds.</p>		
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	<p>Uncertain –</p> <p>Potential for localised impact on potential archaeological remains on site related to recorded monument LH024-041009: Castle motte and bailey.</p> <p>Proposal is located on a highly visible plateau proximate to Millmount tower and complex and necessitates changes to the Watery Hill Steps. The impact on these local cultural and historical features is addressed as part of the Planning Assessment in the main body of the Inspector's Report.</p>	<p>Condition to be attached to require the developer to employ a suitably qualified archaeologist carry out pre-development archaeological testing following consultation with the National Monument Service.</p> <p>CEMP, CTMP CDRWMP as pre-commencement condition(s) – the implementation of the standard measures outlined in same would satisfactorily mitigate potential impacts on Watery Hill Steps.</p>	No
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by	<p>No –</p> <p>No such features arise in this area.</p>	n/a	No

the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?			
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	<p>No –</p> <p>The site is not at risk of fluvial or tidal flooding and pluvial flood risk has been assessment via SuDS/ sustainable drainage infrastructure.</p> <p>Potential impacts arising from the discharge of surface waters to receiving waters are considered, however, no likely significant effects are anticipated.</p>	The development will implement standard, best practice SUDS measures to control the quality and quantity of surface water run-off.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	<p>Uncertain –</p> <p>The project may have potential localised impact on the stability of the northern embankment as it relates to neighbouring site to north (and the Watery Hill Steps to the east) with potential to give rise to localised soil movement/ subsidence etc. A refusal is recommended on this basis as per Section 9.4 of the Inspector's Report.</p>	n/a	No
2.7 Are there any key transport routes (eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	<p>No –</p> <p>Proposal is located in southern environs of Drogheda town and is served by an existing urban road network. It is not likely to give rise to traffic congestion on key transport routes.</p> <p>Access to and from the site will be via a local road (Congress Avenue) which provides access to the R-132 and R-152.</p>	n/a	No
2.8 Are there existing sensitive land uses or community facilities (such as	<p>Yes –</p> <p>ABACUS Special School on opposite side of Congress Avenue which may be locally affected by</p>	CEMP, CDRWMP, CTMP and CNMP as pre-commencement	No

hospitals, schools etc) which could be affected by the project?	noise, vibration, increased activity and emissions etc. – particularly during the construction phase.	condition(s) – the implementation of the standard measures outlined in a same would satisfactorily mitigate potential impacts.	
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	<p>No -</p> <p>No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative local environmental effects with the subject proposal.</p> <p>Cumulative traffic impacts that may arise during construction would be subject to a project construction traffic management plan (CTMP). Cumulative traffic impacts that may arise during operation of both developments have been considered and the impacts of the same found to be appropriate.</p>	CTMP as pre-commencement condition – the implementation of the standard measures outlined in a same would satisfactorily mitigate potential impacts.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No – No transboundary considerations arise.	n/a	No
3.3 Are there any other relevant considerations?	No	n/a	No
C. CONCLUSION			
No real likelihood of significant effects on the environment.		EIAR Not Required	

Real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Required
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D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 – Infrastructure and Urban Development Projects of the Planning and Development Regulations 2001 (as amended);
- The location of the site within the existing built-up urban area, which is served by public infrastructure, the site's limited ecological value and the existing pattern of development in the vicinity;
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended);
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003); and,
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended);

It is considered that the proposed development would not have the potential to have likely significant effects on the environment and that an environmental impact assessment report would not, therefore, be required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Appendix 2

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	The development subject of this appeal comprises of permission for the construction of 71 housing units, comprising 68 apartments and 3 houses and all associated site works – see Section 2.0 of Inspector's Report for further details.
Brief description of development site characteristics and potential impact mechanisms	<p>The site is located to the west of Congress Avenue (north of Marian Park and east of Cherrybrook Drive) in the townland of Lagavooren in the southern environs of Drogheda town in Co. Louth. It is currently accessed off Congress Avenue (to the east) and is proposed to also be accessed from the Cherrybrook Drive estate to the west.</p> <p>The site is brownfield and infill in nature and surrounded by predominantly residential land uses (relatively abundant as per the LCDP Core Strategy) with some institutional uses. The An Cairéal residential apartment complex is located to the immediate north of the site at the base of a steep embankment that delineates the sites.</p> <p>The development includes an attenuation and SuDS surface water treatment system (these measures are integral to the design and to compliance with sustainable drainage policy guidance) and will connect to the existing public sewer and water supply network.</p> <p>The River Boyne is located c. 250m to the north of the site, the scheme may have the potential to give rise to impacts on same during its construction stage and during its operational stage (both via surface-water run-off) and therefore to indirectly impact on the River Boyne and River Blackwater SAC (Site Code: 002299), the Boyne Estuary SPA (Site Code: 004080), the River Boyne and River Blackwater SPA (Site Code: 004232) and the Boyne Coast and Estuary SAC (Site Code: 001957) given the site's relationship with same.</p> <p>There are no other watercourses in or around the site.</p> <p>The ecological statement submitted at planning application stage states that the site has a low</p>

	baseline ecological value with minimal wildlife habitats (small scale microhabitats of limited ecological value only), no significant ecological features, poor biodiversity and limited connectivity to green infrastructure. On this basis, there is no potential for the project to impact on, inter alia, habitats or ex-situ foraging areas used by SCI species.
Screening report	<p>Yes, submitted with the application.</p> <p>The PA highlighted the potential for an indirect hydrological link arising from site's surface water discharges, storm and attenuation infrastructure on that basis of insufficient information being submitted by the applicant in respect to their proposed drainage arrangements and proceeded to refuse permission on the basis of the potential for the proposal to adversely affect the River Boyne and River Blackwater SAC (refusal reason No. 4).</p>
Natura Impact Statement	No
Relevant submissions	Additional information on site drainage arrangements submitted as part of the grounds of the first party appeal.

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

The appeal site is located c. 250m from River Boyne and River Blackwater SAC (Site Code: 002299), c. 2km from the Boyne Estuary SPA (Site Code: 004080), c. 2.9km from the River Boyne and River Blackwater SPA (Site Code: 004232) and c. 3.3km from the Boyne Coast and Estuary SAC (Site Code: 001957).

Following the source-pathway-receptor model and, having considered the findings of the site-specific ecological assessment; the details of the sites existing and proposed infrastructure; the intervening distance between the development site and the above listed SACs & SPAs; and, the presence of a significant buffer area between the sites and these designated sites (i.e. intervening land uses and landscaping) which has the potential to intercept dust emissions etc. and to provide for physical and visual screening of increased human activity, noise and lighting), it has been determined that only the River Boyne and River Blackwater SAC (Site Code: 002299) falls within the zone of influence of the project on account of potential indirect hydrological pathways between the appeal site and this site arising from surface-water discharges during the construction and operational phases (as per the WFD assessment and determination contained in Appendix 3 of this report).

European Site (code)	Qualifying interests¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections²	Consider further in screening³ Y/N
River Boyne and River Blackwater SAC (002299)	To maintain or restore the favourable conservation condition of: - Alkaline fens [7230]	c. 250m	No direct connection.	Yes

	<ul style="list-style-type: none"> - Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0] - <i>Lampetra fluviatilis</i> (River Lamprey) [1099] - <i>Salmo salar</i> (Salmon) [1106] - <i>Lutra lutra</i> (Otter) [1355] <p>Source: https://www.npws.ie/protected-sites/sac/002299 (accessed 05/06/2025)</p>		Potential indirect as above via surface water emissions.	
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Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
River Boyne and River Blackwater SAC (002299) <ul style="list-style-type: none"> - Alkaline fens [7230] - Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0] - <i>Lampetra fluviatilis</i> (River Lamprey) [1099] - <i>Salmo salar</i> (Salmon) [1106] - <i>Lutra lutra</i> (Otter) [1355] <p>Source: https://www.npws.ie/protected-sites/sac/002299 (accessed 05/06/2025)</p>	<p><u>Direct:</u> None</p> <p><u>Indirect:</u> Localised, temporary to long term, low magnitude indirect impacts from emissions to surface-water bodies in vicinity of site.</p>	<p>The contained nature of the site, distance from and buffer area between the site and the SAC make it highly unlikely that the proposed development could generate impacts of a magnitude that could affect habitat quality within the SAC for the qualifying interests listed.</p> <p>Conservation objectives would not be undermined.</p>
	Likelihood of significant effects from proposed development (alone): No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? No	

Step 4 Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development (alone or in combination with other plans and projects) would not result in likely significant effects on a European site.

No mitigation measures are required to come to these conclusions.

I consider the provision of SuDS to be standard drainage design measures required in compliance with sustainable drainage design policy and not therefore as mitigation measures for the purposes of avoiding or preventing impacts to the SAC.

I also consider the provision of a CEMP and CDRWMP to be standard construction mitigation measures and not therefore as mitigation measures for the purposes of avoiding or preventing impacts to the SAC.

Screening Determination

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the following European sites: River Boyne and River Blackwater SAC (Site Code: 002299), Boyne Estuary SPA (Site Code: 004080), River Boyne and River Blackwater SPA (Site Code: 004232) and Boyne Coast and Estuary SAC (Site Code: 001957) or any other European site, in view of these sites' Conservation Objectives, and Appropriate Assessment (and submission of an NIS) is not therefore required.

This determination is based on:

- The nature and scale of the development and lack of impact mechanisms that could significantly affect a European site.
- Distance from and weak, indirect connections to the European sites.

Appendix 3

WFD IMPACT ASSESSMENT STAGE 1: SCREENING

Step 1: Nature of the Project, the Site and Locality

An Bord Pleanála ref. no.	ABP-322008-25	Townland, address	Site off Congress Avenue, Lagavooren townland, Drogheda, Co. Louth
Description of project		<p>Permission for the development of 71 no. residential units at Congress Avenue, Lagavooren Townland, Drogheda, Co. Louth, a site of circa 1.135 hectares. The proposed development will comprise the construction of 71 no. residential units as includes: Block A - 2-4-storey apartment block (3,006 sqm -31 no. units), of 12 no. 1-bed and 19 no. 2-bed units; Block B - 3 storey duplex units (1,475 sqm - 14 no. units) of 7 no. 1-bed units and 7 no. 3-bed units; Block C - 3- to 4-storey apartment block (1,740 sqm - 23 no. units), of 17 no. 1-bed units and 6 no. 2-bed; and Block D - a terrace 3 no. 1-bed houses at single-storey height (176 sqm). The proposed development will also provide: 1 no. community facility (circa 34 sqm); 37 no. car parking spaces including accessible parking; 164 no. secure bicycle parking spaces; public open space totalling 1,721 sqm; communal open space totalling 836 sqm; private garden / amenity areas; all associated hard and soft landscaping, play areas, boundary treatments, roads, footpaths, cycle lanes, plant service spaces, and bin storage; 1 no. ESB sub-station; and all other ancillary works above and</p>	

	below ground. Primary access will be provided via Congress Avenue, with secondary access via Cherrybrook Drive.
Brief site description, relevant to WFD Screening,	Brownfield, relatively flat urban site on an elevated plateau above a steep embankment on the north side of the site. Located in Flood Risk Zone C. Located c. 250m from the Boyne River. No watercourses on site.
Proposed surface water details	Underground attenuation tanks proposed below areas of open space/ landscaping together with various SuDS measures such as green roofs, soakaway, permeable paving to access roads and parking areas and tree pits and rain gardens adjacent to areas of parking/ the carriageways.
Proposed water supply source & available capacity	Uisce Eireann (UE) Confirmation of Feasibility states that proposed water supply connection is feasible without requiring infrastructure upgrade. UE seek that their standard conditions are attached in the event of a grant of permission.
Proposed wastewater treatment system & available capacity, other issues	Uisce Eireann (UE) Confirmation of Feasibility states that wastewater connection is feasible subject to upgrade works to increase capacity of the UE network. These local network upgrades are not in the UR investment plan and are required to be funded by the applicant. UE seek that their standard conditions are attached in the event of a grant of permission.
Others?	n/a
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection	

Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Boyne (transitional)	c. 250m to north of site	Boyne 07B04 Transitional waterbody code: IE_EA_010_0100	Moderate	At Risk	Nutrients & Organic via Agriculture, Hydromorphology, Domestic Urban Wastewater	No direct pathways identified. Indirect hydrological pathways via: <ul style="list-style-type: none"> - Surface water pollution events from plant, storm overflows, urban run-off. - Silt-laden surface water discharges. - Contaminated water discharges. - Alterations to natural hydrology, hydraulic conditions,

							functioning, and hydrogeology.
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Silt-laden surface water discharges.	River Boyne 07B04	Public sewer/ drainage system	Water pollution	CEMP and CDRWMP as pre-commencement condition(s) – the implementation of the standard measures outlined in same would satisfactorily mitigate potential impacts.	No	No Remaining Risk

2.	Contaminated water discharges	River Boyne 07B04	Public sewer/ drainage system	Water pollution	CEMP and CDRWMP as pre-commencement condition(s) – the implementation of the standard measures outlined in same would satisfactorily mitigate potential impacts.	No	No Remaining Risk
3	Alterations to natural hydrology, hydraulic conditions, functioning, and hydrogeology	River Boyne 07B04	Public sewer/ drainage system	Water pollution, Pluvial and fluvial flooding	CEMP and CDRWMP as pre-commencement condition(s) – the implementation of the standard measures outlined in same would satisfactorily mitigate potential impacts.	No	No Remaining Risk
OPERATIONAL PHASE							
4.	Surface water pollution events from plant/ storm overflows	River Boyne 07B04	Public sewer/ drainage system On-site attenuation/ SuDS measures malfunctioning pathway via	Water pollution Pluvial flood risk	The development will implement standard, best practice SuDS measures to control the quality and quantity of surface water run-off. These will be	No	No Remaining Risk

			groundwater or public sewers		maintained on an ongoing basis as part of the responsibilities of the management company.		
5.	Surface water pollution events from urban run-off	River Boyne 07B04	On-site attenuation/ SuDS malfunctioning and pathway via groundwater or public sewers	Water pollution Pluvial flood risk	The development will implement standard, best practice SUDS measures to control the quality and quantity of surface water run-off. These will be maintained on an ongoing basis as part of the responsibilities of the management company.	No	No Remaining Risk