



An  
Bord  
Pleanála

## **S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016**

### **Inspector's Report ABP-300514-17**

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<b>Strategic Housing Development</b>	150 no. units (52 no. duplex/apartments and 98 no. houses).
<b>Location</b>	Station Road, Portmarnock, Co. Dublin.
<b>Planning Authority</b>	Fingal County Council
<b>Applicant</b>	St. Marnock's II Designated Activity Company and Clear Real Estate Investments plc.
<b>Prescribed Bodies</b>	<ol style="list-style-type: none"><li>1. Minister for Culture, Heritage and the Gaeltacht</li><li>2. Heritage Council</li><li>3. An Taisce</li><li>4. Failte Ireland</li></ol>

5. An Chomhairle Ealaíonn
6. Irish Water
7. National Transport Authority
8. Irish Aviation Authority
9. Dublin Airport Authority
10. Health Service Executive

**Observer(s)**

1. John Mulligan
2. Anne Sheridan and Angela Rogers
3. Cllr. David Healy
4. Natalie Marr

**Date of Site Inspection**

16<sup>th</sup> February 2018

**Inspector**

Joanna Kelly

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## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The development site has a stated site area of 7.59ha and is located within the settlement boundary of Portmarnock, approx. 650ms south-west of the commercial core of the village in north Co. Dublin. The site falls within the jurisdiction of Fingal County Council and forms part of the Portmarnock South Local Area Plan (2013).
- 2.2. The site has frontage along Station Road and is located immediately east of an existing residential development known as St. Marnock's Bay, Phase 1a, consisting of 101 units, which is nearing completion. There is another residential development 'Station Manor' under construction opposite the existing access serving St. Marnock's Bay along Station Road. This development site is located east of the residential development known as 'The Kilns' and west of 'The Links' residential development.
- 2.3. Portmarnock railway station is located immediately adjacent to the first phase of St. Marnock's Bay. This station is part of the Dublin-Belfast line which runs in a north-south direction. There is an existing car park associated with the train station with a pedestrian access along the southern boundary into the existing Phase 1a development.
- 2.4. There is an existing archaeological monument, circular in shape, located approximately centre of the development site. This monument is currently fenced off with palisade fencing. There is a second archaeological monument located to the south-eastern area of the overall landholding but does not form part of this site.
- 2.5. There is an existing townland hedgerow with an open ditch located to the eastern perimeter of the site (running perpendicular to Station Road) which it is proposed to retain and integrate into the open space. A proposed regional wetland forms part of the proposal on a portion of lands to the south of the Coast Road, detached from the main area where the residential units are proposed. This portion of the site had

horses on it the day of inspection. A wayleave is indicated across the road at this location for a drainage pipe.

2.6. Baldoyle estuary, a small estuary of the River Sluice, is located on the eastern side of the Coast road, opposite the location of the proposed wetland area. It is proposed to have an outfall from the wetlands to this estuary. The Baldoyle SPA and SAC is located east of this estuary. There is a channel located immediately adjacent to the location of the outfall which has the appearance of a millrace. There is a sluice/flood gate at the north-eastern corner of the channel.

2.7. The development site is located along the flight path of Dublin airport and a steady flow of airplanes were noted during inspection.

### 3.0 Proposed Strategic Housing Development

3.1. The proposal is to construct 150 residential units consisting of 52 no. duplex apartments and 98 no. houses. The housing units are two storey whilst the apartments which are located along Station Road are three storey blocks. The housing units comprise of three and four bed units while the apartments consist of two and three bed units. Table 1 provides a break-down of the type of units proposed.

**Table 1: Unit Typology**

House Type	Total no. of Units	% of overall unit type
3 bed units	50	33%
4 bed units	48	32%
<b>Total Houses</b>	<b>98</b>	
2 bed apartments	26	17.5%
3 bed duplex apartments	26	17.5%
<b>Total Apartments</b>	<b>52</b>	
<b>Total Units</b>	<b>150</b>	<b>100%</b>

3.2. Access to the St. Marnock's Bay is via an existing access from Station Road which will be modified slightly to accommodate the new development. A secondary access will also be provided to the eastern corner of the site along Station Road. The proposal also provides for the provision of a detention pond (located in the north-east corner along Station Road); provision of a temporary foul water pumping station, and 24 hour wastewater storage tank; provision of a regional wetland area on lands immediately west of Coast Road which includes a new storm water outfall and associated headwall into Baldoyle Estuary/Bay on lands to the east of Coast Road.

## 4.0 Planning History

**File Ref. No. F13A/0248** Permission granted in 2014 for 101 residential units immediately west of the current proposal. This development is known as St. Marnock's Bay and is under construction. The site had a stated area of 5.825ha. Details in the planning report indicated that the net residential area (excluding the railway linear park, car park for future local centre, and remote SuDS sites) was 3.27ha giving rise to a net density of 31 units per hectare.

**File ref. No. F07A/0947** Permission granted for 684 units including a neighbourhood centre in 2007. This permission was never implemented and has now withered. This site was approx. 27.83ha and the current site formed part of this overall development site on which permission was granted. The planning report indicated that the subject development would have a residential density of c. 24.5 units per hectare.

### Lands north of development site

**File ref. No. F15A/0258** Permission granted in 2016 for 121 residential units. This development is currently under construction. This site (c. 2.38ha) is accessed off the Station Road and contains a residential development known as Dun Dearg na Saille in the southwest section of the site. This site is directly opposite the existing St. Marnock's development.

## Current Application with ABP

**File Ref. No. 300840-18** Application made to ABP under section 177AE of the Planning and Development Act 2000 as amended for construction of 1.8km of pedestrian and cyclist path adjacent to the Coast Road (R-106) from Red Arches Road to just south of the Coast Road/Station Road roundabout. The development includes, inter alia, a 3m wide cycle track and 2m wide footpath separated by a 2.4m wide grass verge and is located in the Racecourse Park. Permission is also sought for the construction of a 30m long, 4m wide bridge over the Mayne River; upgrading of the existing priority junction between Coast Road and Mayne Road to a signal controlled junction with pedestrian facilities; and provision of toucan crossing facilities on Coast Road at either end of the proposed scheme. This application is due for decision in July 2018.

## 5.0 Section 5 Pre Application Consultation

5.1. A Section 5 pre-application consultation took place at the offices of An Bord Pleanála on 26 October 2017. The main topics raised for discussion at the tripartite meeting were based on the agenda that issued in advance as follows:

- Development strategy for the site in the context of the Portmarnock South LAP to include layout, density, proposed uses within the local centre, connectivity, part V proposals, open space and wetland area.
- Archaeological heritage
- Any other matters

5.2. A copy of the Inspector's report and Opinion is attached to the file for reference by the Board. A copy of the record of the meeting is also available on the file.

5.3. An Bord Pleanála issued notification that it was of the opinion that the documents submitted with the request to enter into consultations require further consideration and amendment to constitute a reasonable basis for an application for strategic housing development. The following is a brief synopsis of the issues noted in the Opinion that required further consideration:

- Design of the local centre – further consideration should address: location, footprint, usability, elevational treatment and materials/finishes together with the interface between the proposed local centre and Station Road. The mix of uses proposed including the lack of a community facility should also be addressed in the documentation at application stage.
- Layout of the proposed development – further consideration of documents as they relate to the layout of the proposed development in the context of the approved LAP and DMURS having regard to the interface between the proposed development and Station Road.
- Density – further consideration of documents as they relate to the density proposed with consideration and justification to, inter alia, minimum densities provided for in national guidelines and also the requirements of the Dublin Airport Outer Public Safety Zone.
- Pedestrian Facilities – further consideration as they relate to pedestrian facilities connecting the proposed development with Portmarnock Train Station.
- Part V – further consideration as they relate to the Part V provision. Consideration and justification should address the location of the proposed Part V units relative to the proposed phasing arrangements and the provision of the Portmarnock pumping station together with their location close to an area of possible archaeological significance.
- Archaeological report – further consideration of the archaeological report having regard to the submission of the Department of Culture, Heritage and the Gaeltacht to An Bord Pleanála.
- Wastewater infrastructure constraints – further consideration/clarification of the documents as they relate to the waste water infrastructure constraints in the network serving the proposed development.



## **Applicant's Statement**

5.4. Article 298(3) of the Regulations provides:

'Where, under section 6(7) of the Act of 2016, the Board issued a notice to the prospective applicant of its opinion that the documents enclosed with the request for pre-application consultations required further consideration and amendment in order to constitute a reasonable basis for an application for permission, the application shall be accompanied by a statement of the proposals included in the application to address the issues set out in the notice.'

5.5. The applicant has submitted a response to ABP's Opinion as follows:

- Design of the local centre – the local centre will not now form part of the application. From a commercial viability perspective, the 150 no. units proposed in conjunction with the 101 units granted permission would not generate sufficient population to sustain 4 no. commercial units. It is the applicant's intention to seek permission for the local centre in the next phase of development.
- Interface of proposed development with Station Road – reference is made to the Design Statement which refers to the design rationale and approach to the duplex units/apartments onto Station Road. It was considered appropriate to locate the cycle/walking track within a landscape strip facing onto Station Road. Further consideration has been given to the parking associated with the duplex units so as to avoid a road developing too close to the recorded monument and to cater for private amenity space to the rear of the units. Further consideration has also been given to the provision of a through route to the south of the recorded monument which now connects with the primary route located east and west of the recorded monument.
- Density – The issue of density is one of balancing the planning policy objectives regarding higher density proximate to public transport with the competing public safety interests of the public safety zones associated with Dublin Airport. The lands are located within the Outer Safety Zone of Dublin airport. The Portmarnock South LAP has regard to the specific context of these lands and specifies a density within the following average range 35-42

units per ha. The proposal provides a net density of 35.3ha and falls within the average minimum density of approx. 35 units per ha. The applicant refers to the Aviation Compliance report which sets out how the development meets the requirements of the ERM report.

- Pedestrian Connectivity – Reference is made to the Design Statement which refers to details of the permeability of the proposed layout and connectivity between the proposed development and the wider context of the LAP lands. The Phase 1a development at St. Marnock's Bay already provides a pedestrian access to the train station along the southern boundary of the car park. A further link to the station car park has been agreed with Irish Rail/CIE and will be provided through the local centre in due course. There will be three locations for pedestrians and cyclists to access the train station. The statement of consistency also demonstrates how the proposed layout encourages walking and cycling which is a key component of the guidelines.
- Part V – It has been agreed in principle with the housing department that 15 no. units will be provided under Part V. The units being provided are house type H1, H2 and H3 which are all ground floor two bed units. Another unit will be provided within the crescent, location to be agreed.
- Archaeology having regard to submission from Department of Culture, Heritage and the Gaeltacht – To date in Portmarnock South, the procedure for monitoring and recording archaeological remains has been agreed with the Department. This has involved an extensive amount of excavation and recording in advance of construction works proceeding in these areas. It is proposed to follow this same approach for the remainder of the lands, subject to this being agreed with the Department. Since receipt of the report from the Department, Courtney Deery were commissioned to undertake further investigations in the vicinity of the planned regional wetland. This followed discussions between Courtney Deery and the Department. Details of these further investigations can be found in the accompanying Archaeological Assessment report. Appendix 2 of the Archaeological Report sets out a response to all of the points raised by the Department as part of their comments on the pre-planning submission to ABP.

- Waste Infrastructure Constraints – The response refers to the Water Services report prepared by JB Barry Consulting. This report provides details in relation to water supply, foul effluent disposal and surface water design and is dealt with in more detail in the assessment section of this report.

5.6. Response to the specific information sought under article 285(5)(b) of the Planning and Development (Strategic Housing Regulations) 2017:

- Compliance with the ERM report for Outer Public Safety Zone – reference is made to the Aviation Report submitted.
- Pedestrian and Cycle connectivity – Reference is made to the Architectural Design Rationale which details the permeability of the proposed layout and connectivity between the proposed development and the wider context of the LAP lands.
- Landscaping scheme – Reference is made to the Landscape Design and Visual Assessment Report and landscape drawings which illustrate how the proposed landscaping scheme is consistent with the Green Infrastructure principles set out in the Portmarnock South LAP.
- Photomontages – Reference is made to the photomontages included in the Architectural Design Rationale, which illustrate the Station Road elevation including the local centre (not forming part of the development) for completeness.
- Areas to be taken in Charge – A drawing has been submitted indicating the areas to be taken in charge and subsequently managed by Fingal County Council.
- Site Specific Flood Risk Assessment – Reference is made to the Flood Risk Assessment submitted as part of the application.

## 6.0 Relevant Planning Policy

### 6.1. National Planning Policy

The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design manual)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets
- The Planning System and Flood Risk management (including the associated technical Appendices)
- Framework and Principles for the Protection of the Archaeological Heritage
- Childcare Facilities – Guidelines for Planning Authorities

### 6.2 Local Planning Policy

#### 6.2.1 Fingal County Development Plan 2017-2023

##### **Zoning Objectives**

The development site of the proposed residential units is zoned 'RA' – 'to provide for residential communities, subject to the provision of the necessary social and physical infrastructure'.

The area where the regional wetland is proposed has land use zoning 'OS' – 'preserve and provide for open space and recreational amenities'.

The area where the proposed outfall is proposed is designated as a 'High Amenity Area'. There is also an indicative pedestrian and cycle route along this section of the Coast Road.

## **General objectives for Portmarnock**

Portmarnock is identified in the second tier of the urban place designation i.e. Town and District Centre. The development strategy is to “consolidate, define and enhance the existing urban form, encouraging more intensive commercial development within the central areas of the town while providing enhanced linkages to lands at South Portmarnock adjacent to the rail line. Retain and improve existing amenities, both for visitors and for residents, along the coast and within the town in a manner sensitive to the proposed natural and built heritage of the area”.

The key development plan objectives for Portmarnock relevant to this application are:

- Objective Portmarnock 1

Develop Portmarnock as a vibrant town providing services and amenities for both residential and visitor populations.

- Objective Portmarnock 4

Protect and manage the flood plain of the Sluice River to the south of Portmarnock and ensure that its integrity as a natural habitat is maintained; and investigate the potential of a riverside walkway.

- Objective Portmarnock 5

Promote an enhanced rail station and rail service with improved facilities for cyclists including secure bike racks and supporting an increase in car parking space provision for motorists together with the provision of a feeder bus service and improved pedestrian and cycle linkage between Chapel lane and the station.

- Objective Portmarnock 7

Prepare and/or implement a Local Area Plan for lands at Portmarnock South to provide for strategic development of the area as a planned sustainable mixed use residential development subject to the delivery of the necessary infrastructure (Refer to Map Sheet No. 9, LAP 9.0)

### 6.2.2 Portmarnock South Local Area Plan 2013

The LAP sets out that the Portmarnock South LAP lands (86ha) are strategically positioned along the DART commuter service and the Dublin-Belfast railway line. The strategic vision of the LAP is to “develop a high quality urban environment with a unique sense of place, maximising and respecting the opportunities presented by the area’s natural assets and coastal location adjoining Baldoyle Bay and recognising its high level of accessibility to Portmarnock train station.”

- Objective C 1 Maintain qualifying interest habitats and species within the Baldoyle SPA and SAC and other European sites where relevant at favourable conservation condition to ensure the ecological integrity of Baldoyle Bay and further ensure that the LAP lands continue to provide supporting functions for the Qualifying interest species.
- Objective C 2 Protect and conserve the natural habitats and designated status of the Sluice River Marsh and ensure that salmonid waters constraints apply to all development within the plan lands.

Table 5.0 in the LAP sets out Habitat Protection Measures. Section 5.5.2 deals with the implementation of these habitat measures. Of note are the following objectives:

- Objective GI 6 Require Appropriate Assessment Screening for any development, plan or project including changes to the landscape, within the Ecological Buffer Zone. This will include any changes to existing or future layout, materials or management.
- Objective GI 7 Protect and enhance the function of the ecological buffer zone through appropriate mitigation and management measures as set out in the Green Infrastructure and Landscape Strategy.
- Objective GI 13 Ensure that sufficient information is provided as part of development, plan or project proposals to enable AA screening to be undertaken and to enable a fully informed assessment of impacts on biodiversity to be made.

With regard to archaeology the LAP sets out that the inclusion of the archaeological features of the Portmarnock Mound (RMP Ref. DU015:014, RPS Ref. No. 475) and the Maynestown Enclosure (RMP Ref. DU015:055) within the green infrastructure

network will help to preserve these important landscape features. The required archaeological buffer zones will form part of the open space network for informal play and passive recreational uses.

Section 6 deals with Movement and Traffic

The LAP sets out that the entire RA plan lands are within walking distance of the train station which is located immediately northwest of the LAP lands and provides frequent DART services to Malahide and the City Centre, suburban train services to north County Dublin and a regional service to Belfast.

- Objective TM 4 Ensure that all planning applications provide for a pedestrian/cycle connection to Portmarnock train station within the plan lands in consultation with Irish Rail. Interfacing with residential development, environmental features and the train station lands shall be carefully considered in future route design proposals.

With regard to Station Road the LAP sets out that Station Road Green Route plays a major role in the public transport system providing pedestrian/cyclist connection to Portmarnock train station. There is an opportunity through the development of the plan lands to provide significantly enhanced pedestrian/cyclist facilities along this route, a tree lined boundary is proposed along Station Road with integrated pedestrian/cycle facilities located behind the tree line providing an attractive and efficient link to Portmarnock train station.

Section 7 of the LAP deals with Urban Design.

## **7.0 Third Party Submissions**

### **7.1. John Mulligan, Blackthorn Close**

- The submission sets out that the issues with the existing Phase 1 component of the St. Marnock's development may have a direct bearing on the proper planning and sustainable development of the area.
- No bin storage constructed in rear gardens as shown on plans for phase 1.
- Landscaping not carried out as per permission

- Surface water: There is a problem with accumulated surface water at the development. Photographs of water logging at the park and to the rear of gardens have been submitted.
- Queries around the safety of the attic access.
- Parking: The lack of on-street parking coupled with the parking width of 4.8m is giving rise to traffic management issues and concerns about access for emergency vehicles. Unless adequate parking is provided there will be a negative cumulative effect on traffic flows, parking and quality of life.
- There will ultimately be over 1,000 housing units built on the lands and it is important that development proceeds free from adverse characteristics and inadequate or poor infrastructure.
- Hours of operation: Reference is made to a breach of hours of operation on a residential development opposite the development site.

## **7.2. Anne Sheridan and Angela Rogers**

The salient points of this observation are summarised as follows:

- Traffic and Transport Assessment (TTA) is inadequate. No figures are given to support parking provision for each unit and the retail centre. The TTA refers to parking provisions in accordance with the County Development Plan 2011-2017. However, there is a new development plan in force for the period 2017-2023 which should have been used.
- Trip generation: Only 2 pages of output sheets for the TRICS files were provided for the residential units. Given the lack of information in relation to sites used for the retail units and the local centre it is impossible to see whether the sites used to produce the figures are suitably comparable. Specific reference is made to the use of comparable sites data in Boroughbridge, North Yorkshire and a site in Dublin which is completely surrounded in every other direction by industrial developments.
- If the TRICS system is being used it should follow the guidelines set out by the NTA and the TRICS consortium.



- The applicant has applied the same TRICS rate for this application (150 units) to the total development (over 1000 units) which is unacceptable. The inclusion of incompatible and such small survey sites has not been explained.
- The TTA with the original application used trip rate figures for units and not trip rates calculated per bedroom, which is what is being used in this case. It is not proven that the total bed system is more appropriate.
- Observer is not questioning the use of TRICS but rather the way it in which the system is used.
- Reference is made to tips provided by the MD of the TRICS consortium at a conference in 2017 and it is set out that the TTA in this case does not provide every piece of information needed to explain the trip rates.
- Reference is made to TRICS Good Practice guide and it is submitted that the TRICS data provided does not adhere to the recommendations in the guide.
- Dublin Bus: it is set out that there is no supporting evidence that Dublin Bus propose to upgrade their service to the study area and new bus routes will service the development.
- With regard to national and local guidelines and publications it is set out that no explanation has been provided as to why some important documents have been ignored.
- There are no details as to who will be implementing the mobility management plan. The plan appears to rely on the Portmarnock South Target Modal Splits which indicate that achieving the targets for cycling (8%) and walking (5%) will be of medium difficulty to deliver. As there is no plan/details/timescale for implementing any of the suggestions in section of the plan it is irrational to rely on the outcomes.
- Parking at Portmarnock station: there are problems parking at this train station. It is unclear if there is an assumption that every resident in this application will walk to the DART station. This is unrealistic for those at the further end of the zoned area. It is likely that commuters will park in this development. The trip generation figures make no allowance for DART

commuter traffic entering the development looking for parking and exiting again in the evening.

- The TTA makes no reference to trips to school. Peak hour traffic hours are changing.
- The applicant has used TRICS data which the observers believe is flawed and therefore the RFC figures within the assessment could be wrong.
- In conclusion, there is no evidence that site compatibility or good practice has been observed in the production of the trip generation figures for this development. The onus of proving sites are compatible, lie with the applicant. The TTA is lacking in areas and the application should be refused.

### **7.3. Councillor David Healy, Páirc Éabhóra**

The main points in this submission are summarised as follows:

- The proposal does not include the commercial/mixed site use between the railway station and the current application site which undermines the sustainability of the development and will have negative consequences for the organisation of the parking provision for the development.
- A multi-storey car parking facility could be provided at the station, integrated with the adjacent commercial development.
- The design of the cycle facilities in the application requires further and more detailed considerations.
- Station road is a designated route in the CDP. It is not clear how the proposed design of the road fits in to the overall plan for the road.
- Good surface water management for the purposes of water quality -protection and improvement - is vital given the constrained value of Baldoyle Estuary. The application appears to focus on water quantity rather than quality. It is not clear how the proposed design will serve to protect the receiving estuary from polluted run-off.

- The proposal for a large retention pond surrounded by a 2m fence in a visually sensitive high amenity area is unacceptable. The design should rely on surface water management features such as swales and rain gardens.

#### **7.4. Natalie Marr, St. Marnock's Bay**

The main planning issues raised in this observation area are as follows:

- Object to the application as the proposal is of a much higher density to the existing Phase 1 and would create a disjointed estate.
- There are already a high number of apartments and duplexes on Station Road. The developer would be contributing to an imbalance of household types by constructing more apartments and duplexes.
- Station road is heavily congested with traffic. Allowing for this number of dwellings to be added to Station Road before improvements are made will have a negative impact on current road users and local residents.
- There are currently no shops or similar amenities on Station Road with only one shop at the entrance of Seabrook Manor closing in 2016. Such amenities are required to provide for the local population.
- More dwellings without adding school places will have a negative impact on the local community.
- There are a number of elements outlined in the LAP that should happen before further development takes place.
- If extensions are to be made to the St. Marnock's Bay estate they should be sympathetic to the design and density of the estate.

## **8.0 Planning Authority Submission**

Section 8(5)(a) of the Act requires the planning authority or authorities in whose area or areas the proposed strategic housing development is situated to submit to ABP

within 8 weeks from its receipt of a copy of the application under section 4(1) a report of its Chief Executive setting out:

- (i) A summary of the points raised in the submissions or observations duly received by ABP in relation to the application,
- (ii) The Chief Executive's views on the effects of that proposed development on the proper planning and sustainable development of the area of the authority and on the environment, having regard in particular to-
  - (I) The matters specified in section 34(2) of the Act of 2000, and
  - (II) Submissions and observations duly received by ABP in relation to the application and
- (iii) Where the meeting or meetings referred to in subsection (4)(c)(ii) has or have taken place, a summary of the views of the relevant elected members on that proposed development as expressed at such meeting or meetings.

Section 8(5)(b) requires the planning authority to:

- (i) Set out the authority's opinion as to whether the proposed strategic housing development would be consistent with the relevant objectives of the development plan or local area plan, as the case may be,
- (ii) Include a statement as to whether the authority recommends to ABP that permission should be granted or refused, together with the reasons for its recommendation, and
- (iii) Specify in the report:
  - (I) Where the authority recommends that permission be granted, the planning conditions (if any), and the reasons and grounds for them, that it would recommend in the event that ABP decides to grant permission, or
  - (II) If appropriate in the circumstances, where the authority recommends that permission be refused, the planning conditions and the reasons and grounds for them, that it would recommend in the event that ABP decides to grant permission.

8.1. With regard to the submissions/observations received by ABP, the planning authority highlight the main issues raised in the Chief Executive's report. The response to these issues is summarised as follows:

- The non-compliance issues pertaining to the first Phase of St. Marnock's Bay have been referred to the enforcement section.
- The observations have been considered in the formulation of the Chief Executive's views on the effects of the proposed development on the planning and sustainable development of the area and on the environment.

8.2 With regard to the Chief Executive's report it is summarised as follows:

- A summary of the main points raised in the submissions/observations from Observers including prescribed bodies has been referred to in the CEO report.
- Details of relevant planning history pertaining to the site and adjoining lands are outlined.
- A site description and relevant planning policies have been outlined.
- With regard to assessment of the proposal the following is noted:

Zoning – the western section of the site is zoned 'RA' which seeks to 'provide for new residential communities, subject to the provision of the necessary social and physical infrastructure'. The outlying eastern part of the site is zoned 'OS' which seeks to 'preserve and provide for open space and recreational amenities'. The proposed outfall within the Murrough is located in lands zoned 'HA' which seeks to 'protect and enhance high amenity areas'. The proposal is acceptable in principle.

Density – The site is located within the Outer Public Safety Zone and the Outer Airport Noise Zone for Dublin Airport. There is a density restriction of a maximum of 60 persons per half hectare. The LAP identifies densities of between 35 and 42 units per hectare. The proposal appears to achieve 35.3 per hectare. A detailed Aviation Compliance report has been submitted setting out the methodology for assessment of the requirement for 60 persons or less per half hectare of housing. The planning authority is satisfied that the

proposal achieves a suitable density within the constraints of the outer safety zone.

LAP – A detailed LAP has been prepared for the overall lands. Strategic environmental assessment and appropriate assessment was undertaken as part of this process which identified and required the implementation of a suite of measures and objectives including a green infrastructure network, retention of archaeological features, provision of SuDS, landscape protection measures and protection of environmentally designated sites. The applicant has submitted a statement of consistency setting out how the proposal complies with the relevant objectives. The proposal generally appears to comply with the strategic aims and detailed objectives of the LAP relevant to this area of land along with the required phasing requirements.

Compliance with LAP Phasing – The site is located in growth area 1. The quantum of housing combined with that already permitted under File ref. No. F13A/0248 would be 251 houses which is considered to be development within Phase 1 of the LAP. It is set out that there is a requirement that the services centre be commenced in the early stages of the LAP and completed by the mid stages and as such a proposal for the services centre will be expected to be provided as part of the next planning application of the lands.

Green Infrastructure – Numerous policies are set out in the LAP regarding the provision of green infrastructure. It is considered that the proposal incorporates the relevant areas of the network, including open space, the townland hedge, wetland SuDS and green routes. A detailed Ecological Appraisal which sets out previous and ongoing works has been submitted. The report of the Heritage Officer notes the contents of the Ecological Appraisal and requests that a consolidated schedule of all of the proposed mitigation and other measures be provided as a condition of planning permission.

Landscape – The applicant has provided a detailed Landscape Design and Visual Assessment Report which coherently sets out the landscape strategy to be employed within the application lands. The area of the lands proposed for development under this application is the least sensitive, being most

proximate to the existing urban areas. It is considered that subject to the implementation of the detailed landscape plans that the impact of the proposal on the landscape in the northern part of the LAP would be sufficiently mitigated.

Archaeology – Significant levels of archaeology were known and incorporated into the overall structure of the LAP, most obviously through the use of the inter-monumental route. Additional archaeological sites have become known through excavations undertaken as a consequence of works on lands. These sites along with excavation trenches are set out in figure 6 of the Archaeological Report. It is noted that the area proposed for the smaller northeastern SuDS pond is one of these unresolved areas. The County Archaeologist and the Development Applications Unit have provided reports on the proposals with both recommending conditions relating to mitigation and monitoring.

Open Space and recreation – The open space contained within the site outline includes, the linear park along ‘Baile Fearainn Pairc’, north-east alongside the townland hedgerow and the archaeological buffer zone, set out as the circular open space. It is noted that the regional park to the east is provided for under F13A/0248. The applicant has noted that the land forming part of the Racecourse Regional Park is in the process of being transferred to the Council. It is recommended that a condition, following on from condition 3 of F13A/0248 requiring land transfer prior to commencement of development be attached in the event of a grant of permission. The applicant has provided significantly in excess of 10% of open space and the proposal provides for an attractively designed network of open spaces. A number of issues raised by the Parks and Green Infrastructure section require attention. These mostly relate to issues regarding maintenance, location of public light away from trees and grass verges, protection of important trees and hedgerows, details of revisions to the play facilities, removal of boundaries to the SuDS detention ponds due to their location within public open space and redesign of said features in order to reduce risk to park users and amendment of boundaries to incorporate awkward areas of land into private space. These matters should be attached as conditions.

The Parks Department raise an issue of the significance regarding the highly engineered design of the SuDS ponds. This was consistently indicated to be a concern to the applicant during pre-planning. The submitted design remains largely unchanged and does not incorporate design features which would generate the appearance of habitat associated with a wetland. The applicant is also proposing a 1.8m high fence around both features, further exacerbating the attenuation basin design. It is considered this issue can be dealt with by way of condition.

Public Lighting – The site is located within ‘LZ E3 – Medium brightness’ zone. A lighting plan has been submitted. Any grant of permission should attach a condition requiring agreement on lighting layout prior to commencement of development.

Movement and Transport – There is a shortfall of 10 visitor spaces for the apartments. The applicant has attempted to provide a mixture of parallel and perpendicular parking along the northern side of the access road, with banks of parking being no more than 2-3 bays in width along with interspersed tree planting to avoid the appearance of banks of parking. It is considered that the shortfall is acceptable based on the proximity of this section of the LAP lands to the train station. Proposal generally complies with DMURS and provision of a multi-storey car park is not a requirement of the LAP. It is considered that some form of temporary linkage through the local centre lands should be provided as part of this application. The transportation report notes the lack of appropriate information within the TTA TRICS appendices. However, the report notes that the traffic impact was assessed during the development of the LAPs for Baldoyle-Stapolin and Portmarnock South with various works required to surrounding roads infrastructure to ensure capacity.

Urban Design – Section 7.1 of the LAP sets out 12 urban design principles and the applicant’s response is generally acceptable.

Visual Impact – The effective use of existing landscaping features and new planting will sufficiently ameliorate visual impact.



Commercial, Social, Employment and Tourism Infrastructure – No community facilities are proposed and crèche and schools are not permitted within the Airport Outer Safety Zones.

Infrastructure and Services – It was noted during pre-planning that a permanent pumping station required prior to commencement of any further dwellings over 100 units will not likely be in place prior to Q3 2019 and would restrict further development on the site. Irish water is satisfied that 150 additional dwellings can be accommodated within the existing Portmarnock Bridge pumping station subject to a temporary pumping station and on-site wastewater holding tank. It is recommended that a condition regarding maintenance, operation and decommissioning of this temporary infrastructure is attached. Details of SuDS maintenance should be provided. A site specific flood risk assessment is provided and proposed works are considered acceptable.

Residential Amenity – Residential amenity standard is generally acceptable. However, it is noted that access to private amenity space from the ground floor apartments are from a single bedroom only. Access to patios from each of the bedrooms would reduce the need to travel through a particular bedroom to access the patio. This can be dealt with by way of condition. Details of boundary treatments to the rear private open space is required. It is set out that House Type A1, A2, A4 and E1 do not turn the corner effectively. Concern is raised with the projecting ground floor feature associated units 181, 186, 187 and 191 due to the lack of certainty regarding development to the south, short separation distances to boundaries and the irregular shape of the private open space. Omission of these projections are recommended.

Appropriate Assessment – A Natura Impact Assessment has been submitted. The report concludes that loss of 43sq.m. of non-annex habitat on the edge of the SAC will not impact on the integrity of the site. The Heritage Officer's report set out that the NIS is comprehensive and concurs with the conclusion that the proposal will not, either alone, or in combination with other plans and projects, adversely impact European sites.

Part V – No report from the housing department was received however the matter can be dealt with by condition.

Conclusion – Proposal is considered consistent with the Fingal County Development Plan and the Portmarnock South LAP subject to implementation and mitigation measures relating to archaeology, habitat, bio-diversity and Natura 2000 sites. It is set out that a tree bond of €50,000 should be sought. 32 no. conditions are recommended.

- 8.2. With regard to the area committee meeting as set out under section 8(4)(c)(ii) of the SHD Act, the Chief Executive's report notes comments of elected members at the Area Committee Meeting 10th January 2018 which are summarised as follows:

#### Station Road

- Concerns regarding lack of ease of access to the northern side of Station Road. Queries whether cycle route was one or two way.
- Retention of hedgerow along Station Road commended.

#### Cycle/Pedestrian Issues

- Priority be demonstrated at junctions for cyclists and pedestrians
- Pedestrian linkage from lands to railway station of high importance
- Cycle route should link in to the Baldoyle/Portmarnock route.

#### Surface Water

- Attenuation seems to be proposed for quantity rather than quality and appears oversized.
- Proposed fence around SuDS feature not desirable.
- Consider provision of swale along Station road.

- Queries regarding the design impact of the wetland/SuDS on the Racecourse Park.

#### Parking

- Multi-storey carpark at the railway station/entrance to the overall development is required instead of significant levels of car parking through the development.
- Consideration should be given to visitor parking
- Increasing parking in the area proximate to the station may lead to illegal parking.

#### Open Space

- Queried lack of play area within open spaces

#### Phasing

- Does not approve of omission of commercial area

#### SHD Process

- Require more notice
- Broad support for proposal
- More effective if larger scale delivery of homes was part of the application.

#### Other Issues

- Request highest levels of noise protection of dwellings

The Chief Executive's report is considered to contain the information as required under section 8.5 (a) and (b) of the SHD Act 2017.

## 9.0 Prescribed Bodies

The applicant indicated that the prescribed bodies as listed in the Opinion issued by ABP were notified of the application. Accordingly, a summary of the main points raised in the responses received by ABP to this notification are outlined as follows:

### 9.1. DAA

- The proposed development is located within the Outer Airport Noise Zone and the Outer Public Safety Zone. The Fingal County Development Plan makes reference to Objective DA07 which is to strictly control inappropriate development and require noise insulation where appropriate within the Outer Noise Zone.
- Recognising the site's location in the Outer Airport Noise Zone an Inward Noise Assessment is included with the application.
- Should the Board be minded to grant permission DAA would request a condition be attached requiring all recommended noise attenuation measures be implemented in full.
- ABP should have regard to the recommendations of the ERM report Public Safety Zones (2005) on development within the Outer Public Safety Zone.

### 9.2. Development Applications Unit

- On the basis of the results of the test excavations and the information in the report it is recommended that the applicants engage the services of a suitably qualified archaeologist to co-ordinate all the mitigation proposals contained in the report.

### 9.3. Irish Water

- Irish water confirms that subject to a valid connection agreement being put in place between Irish Water and the developer, the proposed connection to the network can be facilitated.

## 10.0 Assessment

Pursuant to site inspection and inspection of the surrounding environs including the road network, examination of all documentation, plans and particulars and submissions/observations on file, I considered the following the relevant planning considerations of this application:

- Principle of development
- Density
- Urban Design and Layout
- Noise
- Landscape Strategy and Green Infrastructure
- Movement and Transportation
- Water and waste water infrastructure
- Other Issues
- Appropriate assessment

### 10.1. Principle of development

#### Zoning

10.1.1. The lands on which the proposed 150 residential units are to be located are zoned 'Objective RA' – 'to provide for new residential communities in accordance with approved local area plans and subject to provision of the necessary social and physical infrastructure'. The area where the proposed regional wetland is to be located is zoned 'Objective OS – protect and enhance high amenity areas'. The Portmarnock South LAP identifies this area as an ecological buffer zone, the purpose of which is to protect the integrity of the nationally and internationally designated site: Baldoyle Bay. The area where the proposed outfall is proposed along the Coast Road is zoned 'Objective HA – protect and enhance high amenity areas'. The proposal having regard to the zoning objectives is considered to satisfy the definition in the Act of 2016 for strategic housing development.

## Other Uses

- 10.1.2. The LAP identifies the lands immediately east of the train station and west of the proposed residential development along Station Road for a small centre. The LAP indicates that it is a strategic aim to “promote the provision of a mix of retail, service, healthcare, recreational and community facilities within the small centre and at a level commensurate with local need”. The applicant provided details at the pre-application consultation that included the provision of retail/commercial units on these lands. However, the applicant indicates that it is not now proposed to construct these units at this time. The rationale presented is that there is insufficient critical mass to support a local centre at this time. Concerns are raised about the omission of such services. While I note such concerns an observer indicates that there was a shop located at the entrance of Seabrook Manor which has closed up in recent time. This would appear to support the applicant’s view that there is insufficient critical mass to support the development of a local centre at this time.
- 10.1.3. Figure 11.6 in the LAP sets out the infrastructural requirements for each phase of development. The Local Services Centre should be commenced in Phase 1: 1-300 units. The first phase of development on the LAP lands is nearing completion for 101 units. The proposed development is for 150 units and cumulatively the proposal falls below the threshold for when the local services centre is required to have commenced.
- 10.1.4. Subject to the provision and general consistency with the specific objectives contained in the development plan for the lands in question, I consider that the proposal for residential development is acceptable. The zoning objective for the lands in question is such that permits consideration of an application for residential development as provided for in the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 10.2. **Density**

- 10.2.1. The lands are located within the outer public safety zone and the outer noise zones for Dublin Airport and as such density, land-use and noise restrictions apply as outlined in the development plan and LAP notwithstanding provisions in national guidelines. Densities are limited by the outer public safety zone requirement that ‘no

single half hectare plot should accommodate more than 60 persons' as provided for in the Environmental Resources Management (ERM) Report, Proposed Public Safety Zones for Dublin Airport, February 2005.

10.2.2. The Portmarnock South LAP specifically references the ERM report with regard to the allowable density of housing stating that:

'no single half hectare plot should accommodate more than 60 persons'. An Aviation Compliance report submitted with the application sets out that this requirement has been used as the basis of a residential occupancy checking exercise to ensure that the proposed development is compliant with the requirements of the LAP and the ERM report. Section 3.12 of the report deals with Assessment Methodology and Findings. A grid of half hectare squares was overlaid onto the residential layout. Three additional offset grids were generated in order to create a dense mesh of overlapping half hectare grids. With regard to occupancy, the applicant used the same methodology as that used for the first Phase of development i.e. occupancy rate based on published CSO census figures. A figure of 2.8 persons per dwelling has been used. The applicant indicates that 822 no. bedspaces are being provided within the proposed development on a site of 7.59ha which equates to 108 bed spaces per hectare. With regard to the net density based on units per hectare, the applicant is proposed to construct 150 units on an overall site of 7.9ha of which gives rise to a gross density of 19 units per hectare. However, having regard to the developable area i.e. total area less open space and the wetland area, the overall net density equates to approx. 30 units per hectare.

10.2.3. I am satisfied that the proposed density is acceptable in this instance having regard to the constraints imposed due to the location of the lands within the Outer Public Safety Zone of Dublin Airport. The proposed density complies with the ERM report with regard to public safety and does not fall below the minimum threshold set out in the Sustainable Residential Development in Urban Areas of not less than 30 units for greenfield/outer suburban sites.

### 10.3. Urban Design and Layout

#### General

10.3.1. There are section 28 Ministerial guidelines which should be considered in conjunction with the provisions of the Fingal County Development Plan and the Portmarnock South LAP with regard to the overall design and layout of the proposed scheme. The most relevant of these are ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2018’ and ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) 2009’ and the accompanying design manual. Both of these Ministerial Guidelines advocate high quality sustainable development that are well designed and built so as to integrate with existing or new communities. The Design Manual which accompanies the Sustainable Residential Development Guidelines provide best practice design manual criteria such as context, connections, inclusivity, variety, efficiency, layout etc.

#### Design Rationale

10.3.2. An Architectural Design rationale was submitted with the application. It is set out that the design development process was preceded by the evolution of a Development Framework document to account for the entire landholding covered by the LAP. It is indicated that the framework document provides a roadmap for the delivery of 995 units across the applicant’s landholding. The applicant indicates that the development framework is structured to visually integrate the residential community into the surrounding landscape. The footprint is divided by the Inter Monumental Route linking the two recorded monuments on the LAP lands into the surrounding open landscape. It is set out that the plan form is structured in a shape resembling a leaf, with indented edges to draw in the landscape and landscaped “fingers” extending inwards towards the central spine. An indicative layout for the overall lands within the applicant’s control has been provided and it is set out that the final disposition and density of units on the site has been analysed to accord with the requirements and restrictions on density set out by the Aviation Authority. With regard to the character of the differing areas, it is set out by the applicant that the character of the Station and Central areas are closely linked and that both must be informed by the fact that they adjoin the St. Marnock’s Bay (phase 1a) housing



development to the west. The central area is defined by streets of two storey terraced and semi-detached houses with “in-curtilage” parking. The character of the Station area is defined by a difference in scale, density and urban form from the central character area i.e. duplex units onto Station Road, crescent of houses generated by circular plan form of the northern recorded monument.

10.3.3. A separate statement of consistency has been prepared which sets out consistency with the 12 Design Criteria of the Urban Design manual. A development framework plan has been enclosed (see Drawing 6158-002 on file). The overall layout has been influenced by the existing recorded monument on site (DU015-014) which is being retained as a central feature of the site informing the layout at this location. Terraced housing is located in a crescent shape around this monument with three other detached units located at the end of the cul-de-sac. The outer crescent of housing characterised by semi-detached and detached units fronts onto the existing spine road known as ‘The Avenue’ which serves as the main entry route into the overall development. The permitted phase 1 of St. Marnock’s Bay is located to the west of this spine road. Detached and semi-detached duplex units are proposed along Station Road. As stated, an overall masterplan which sets out the design concept has been submitted. This highlights the connectivity through the overall development including the creation of a desire line between the two recorded monuments and the pedestrian/cycle paths. In general, I consider that the design concept and overall layout is to be commended as it effectively integrates and utilises existing characteristics of the lands into the overall design so as to create a sense of place.

#### Design and Layout of the Units

10.3.4. With regard to the design and layout of the residential units, the proposal is required to meet the standards set out in both the Sustainable Urban Housing: Design Standards for Apartments, Guidelines for Planning Authorities 2018 and the Sustainable Residential Development in Urban Areas Guidelines 2009. A schedule of area and housing quality assessment has been submitted by the applicant. The following table provides an overview of the floor areas of each residential type and number of units provided.

Table 2: Overview of residential units

House Type	Floor Area	No. of beds	No. of units
A1 – end of terrace	132.9sq.m.	3 bed	2
A2 – end of terrace	132.9sq.m.	3 bed	4
A3 – mid terrace	121.8sq.m.	3 bed	10
A4- end of terrace	132.9sq.m.	3 bed	2
B1 - detached	112sq.m.	3 bed	1
C1 - semi-detached	112.4sq.m.	3 bed	23
C2 – mid terrace	112.1sq.m.	3 bed	1
C3- semi-detached	124sq.m.	3 bed	6
C4 – end of terrace	112.3sq.m.	3 bed	1
D1 - detached	137.6sq.m.	4 bed	8
D4 - detached	135.6sq.m.	4 bed	2
E1 – semi-detached	143.3sq.m.	4 bed	2
E2 – semi-detached	133.2sq.m.	4 bed	10
F1 – end of terrace	166.6sq.m.	4 bed	1
F2 – end of terrace	164.4sq.m.	4 bed	4
F3 – mid terrace	165.2sq.m.	4 bed	3
F4 – mid terrace	153.7sq.m.	4 bed	18
<b>Total</b>			<b>98</b>
Duplex/Apt Units	Floor Area	No. of beds	No. of Units
G1	138sq.m.	3 bed	6
G2	137.8sq.m.	3 bed	8
G3	132.8sq.m.	3 bed	12
H1	80.7sq.m.	2 bed	2
H2	80.9sq.m.	2 bed	20
H3	81sq.m.	2 bed	4
<b>Total</b>			<b>52</b>

10.3.5. The planning authority has expressed concerns regarding the projecting ground floor feature associated with units 181,186,187 and 191, (type A1, three bed end of terrace unit). These units have a single storey rear projection so as to provide additional floor area to the main living area of these units. The private amenity spaces are considered to meet minimum standards. While the configuration of the private amenity space is somewhat awkwardly configured, such is not uncommon in urban areas. Boundary treatment to these units will also screen the single storey projection from the public road. Overlooking of adjoining units is not an issue. The planning authority also indicate that house types A1, A2, A4 and E1 do not turn the corner effectively. While the elevational treatment of these units could have been improved by inter alia, increasing the number of windows, size of window opes, use of differing materials/textures, on balance I consider the design to be acceptable. The provision of landscaping along/adjacent to the public road will help reduce the dominance of these elevations.

10.3.6. I am satisfied that the units are consistent with ministerial guidance regarding inter alia, overall size, configuration, storage space. The architectural expression of the proposed units is similar to that of the existing constructed scheme. The proposed external finishes are similar to the existing scheme, with concrete roof tiles, zinc roof covering to rear of units, painted sand and cement render and brick finish. I note that there are finer details pertaining to the dwellings that would need to be specified for construction purposes such as depth of cill levels on front windows. However, such detailing is not required for the purposes of assessing this application. I would comment that access to the patio area from the ground floor apartments is via one bedroom only within these units. The planning authority has also raised concerns about this issue and recommends that access also be provided from the other bedroom to reduce the need to travel through the one bedroom to access the private amenity space. I consider that this can be dealt with by way of condition and the developer should either provide access from both bedrooms or amend the configuration of the units to provide more suitable means of access to the patio.

#### Bin storage

10.3.7. Bin storage is proposed to all of the apartments/duplex units and terraced units. The elevational treatment consists of a 1.2m high brick wall. I note that an observer has

raised concerns about the lack of bin storage provision in the existing development. This is a matter for the planning authority to determine whether there is non-compliance with the permitted development. An Bord Pleanála does not have any enforcement powers under the Planning and Development Acts.

#### 10.4. Noise

10.4.1. A report outlining the findings of an inward noise impact assessment on the proposed housing development has been submitted. Environmental noise surveys were conducted to quantify the existing noise environment. Three key measurement locations were selected and I am satisfied that these locations are representative of the key noise sensitive locations across the site. Mitigation has been specified to ensure that the following daytime and night-time internal noise criteria are met:

- 35dB  $L_{Aeq, 16hr}$  daytime within living rooms:
- 30dB  $L_{Aeq, 8hr}$  night-time within bedrooms and
- A value of 45dB  $L_{AFmax}$  is not normally exceeded in bedrooms at night.

Consideration has been given to the future noise environment. The figures indicate that an increase in noise levels of approx. 2-3dB are expected due to the development of a second runway at Dublin Airport.

10.4.2. The report concludes that the site is suitable for development once consideration is given to the provision of mitigation to ensure the amenity of the proposed dwellings. These mitigation measures include:

- The introduction of enhanced glazing specifications within building envelopes,
- The provision of attenuated ventilation, and
- Enhanced roof construction.

The Dublin Airport Authority has set out that a condition should be attached requiring all recommended noise attenuation measures be implemented in full.

## 10.5. Landscape Strategy and Green Infrastructure

### General

10.5.1. The Fingal Development Plan recognises that green infrastructure is a vital component in building resilient communities capable to adapting to the consequences of climate change. Objective G103 seeks to

“develop the green infrastructure network to ensure the conservation and enhancement of biodiversity, including the protection of European sites, the provision of accessible parks, open spaces and recreational facilities, the sustainable management of water, the maintenance of landscape character including historic landscape character and the protection and enhancement of the architectural and archaeological heritage”.

A Green Infrastructure and Landscape Strategy was prepared and informed the making of the LAP. The Portmarnock South LAP seeks to “incorporate green infrastructure proposals in line with current County Development Plan policy”. With regard to the proposed development, the applicant has given consideration to each of the five themes for which there are a number of specific objectives set out in the development plan: Landscape; Biodiversity; Open Space and Recreation; Archaeological and Built Heritage; and Sustainable Water Management.

### Landscape

10.5.2. The applicant has undertaken a Landscape Design and Visual Assessment. The site contains two character areas identified in the LAP: Station Road and the High Amenity area along the Coast Road. The design rationale and development framework has been discussed in section 10.3.2 of this report. The residential component is located within the ‘Station Character Area’ as identified on Figure 7.0 of the Portmarnock South LAP. A landscape masterplan has been submitted for Phase 1b (current scheme before the Board). The eastern boundary of the proposed residential element of Phase 1b is defined by a tree-lined townland boundary hedgerow which is to be incorporated into a proposed linear park, a key objective of the LAP. A regional wetland is to be provided east of the townland boundary in a visually open setting along the Coast Road. The report notes that the wider

landscape is notably more open to the east and southeast approaching the coastal landscape of Coast Road/Baldoyle Estuary. Reference is made to the phase 1a development which included the provision of the following:

- Provision of ecological and landscape buffer areas provided to the east and south of the LAP lands identified for residential development.
- Circa 8.5 hectares provided as bird quiet zones
- Circa 1.25 hectares of the Murragh lands have been seeded to grassland as foraging for overwintering birds. These works within the Murragh were carried out in agreement with Fingal County Council and the NPWS.
- 1.2 hectares of railway linear park.

10.5.3. Details on file indicate that a key principal is the use of semi-natural species-rich meadows which will act as a connective fabric within the wider landscape and green infrastructure network. It is set out that the meadow fabric will improve species diversity, reduce maintenance and resource inputs, naturally incorporate sustainable drainage and bio-swales, retained hedgerows, new tree and hedgerow planting.

10.5.4. The Chief Executive's report sets out that the regional park on LAP lands to the east is provided for under permission F13A/0248 and that these lands forming the racecourse regional Park is in the process of being transferred to the Council. Conveyancing has been ongoing for some time with positive engagement by all parties. In order to ensure that this critical piece of infrastructure is transferred to Fingal as soon as possible, it is recommended by the planning authority that a condition, following on from condition 3 of F13A/0248, requiring the land transfer prior to commencement of development be attached in the event of a grant of permission. I consider that such a condition is particularly onerous as the timeframe for the completion of the conveyancing process may be such that unduly impacts on the delivery of housing in this application. There is adequate public open space being provided in this application to serve the proposed housing and as such it does not rely on the delivery of the regional park.

#### Biodiversity

10.5.5. An ecological appraisal has been submitted with the application. The potential for impacts on Natura 2000 sites are appraised in the NIS which is dealt with under the

heading of Appropriate Assessment (section 10.9 of this report). The applicant indicates that informal site consultations have been undertaken with the Fingal County Council Biodiversity Officer and with the District Conservation Officer and local Wildlife Ranger of the NPWS. The report indicates that there are no rare habitats or habitats of particularly high ecological value present on the site. No rare plants were recorded during the site visits. No badgers were recorded and it is noted that the site contains very few potentially significant features that may be of use for roosting bats. The report indicates that bat activity was very low and concentrated to the south of the LAP lands concentrated along the Mayne Road R123 linking the Balgriffin and the Coast Road.

- 10.5.6. As noted in the Chief Executive's report and also in the ecological appraisal giant hogweed has been recorded in the local area in the past and within the Phase 1A of the area. Long-term management of this species has been undertaken and I noted public warning signs to this effect during my site inspection. It is set out that management will continue into the future until it is confirmed that the species has been eradicated. The planning authority recommend a condition be attached to this effect.
- 10.5.7. A survey was undertaken in order to determine if any Annex I habitats were present at the proposed surface water outfall location within the Baldoyle SAC. The survey found that within the wider vicinity of the proposed outfall two Annex II habitats are present i.e. Atlantic salt meadows and mudflats and sandflats. The report outlines species recorded in the Atlantic saltmarsh habitat including sea pursulane, common saltmarsh grass. Common cord-grass a species listed on Schedule 3 of the Birds and Habitats Regulations 2001 was also recorded within the study area but not near or within the proposed development area. Schedule 3 refers to non-native species subject to restrictions under Regulations 49 and 50 and includes all cord-grasses. I refer the Board to the 'Portmarnock Storm Outfall: Marine and Coastal Habitats, section 4.2.4 which also refers to invasive species. Section 6.3 sets out that appropriate biosecurity measures to avoid the spread of invasive species.
- 10.5.8. The development of the surface water outfall, together with concrete headwalls and apron, will require the removal of habitat within the site boundary of the Baldoyle SAC and SPA. The NIS indicates that the habitat to be removed comprises of an area of dry/neutral grassland and scrub that occurs between the public road and the

mudflats and saltmarsh habitats, qualifying interests in the SAC. I refer the Board to the appropriate assessment section regarding further consideration of this issue.

10.5.9. The Heritage Officer for the Council sets out a number of recommendations including the continuation of Giant Hogweed management for a further three years and the submission of a schedule of ecological mitigation measures. I also consider such conditions appropriate.

#### Open Space and Recreation

10.5.10. With regard to open space provision, the following is being provided as part of this application:

- Integration of the recorded monument and its buffer within a circular open space of approx. .55ha. It is proposed to provide for a number of protective measures to this area including laying a geotextile layer over the surface, applying a protective layer of 200 to 300mm of topsoil of the geotextile, using topsoil to grade out very steep side slopes of existing mound. Open space around the monument will also include for the formal and informal play areas, walkways, and 'garden rooms' cut out of the meadow shard.
- Linear Park (ca. 0.65h) – the existing townland hedgerow feature is to be integrated into a proposed linear park to the immediate east of the Phase 1b residential development.
- Station Road – a landscape buffer of approx. 0.17hectares is proposed along the front of Station Road.
- Detention basin – A small surface water detention basin is incorporated within a small pocket park of ca. 0.13h at the north east corner of the residential area. It is proposed that this area will be enclosed by 1.8m high fencing which the planning authority recommend should be omitted.
- Regional wetland – this is to be provided along Coast Road and is to be graded out and seeded to meadow grassland with marginal and aquatic plants. This wetland is also to be enclosed by fencing.

The applicant is also proposing an inter-monumental route which includes the provision of the northern portion of the 'inter monumental' route between the



recorded monuments on the Portmarnock South lands. This route provides footpaths, cycle paths, informal play and links to the proposed linear park. Adequate public open space is being provided. It is an objective of the LAP to promote greater awareness and appreciation of local archaeology. Interpretative information is proposed at the monument which the LAP sets out should be in the form of high-quality 'bespoke' landscape signage and/or artwork as required in the LAP. While the landscape masterplan indicates that interpretative panels are to be provided, this should be subject to condition.

#### Archaeology and Built Heritage

- 10.5.11. ABP's Opinion required further consideration and or amendment of the archaeological report, having regard to the submission of the Department of Culture, Heritage and the Gaeltacht to An Bord Pleanála (dated 23/10/2017). It is set out that a meeting was held with the National Monuments Service on 22<sup>nd</sup> November 2017 to agree an approach and to facilitate advancing the necessary archaeological works. It is indicated that previous archaeological works including a conservation plan for the preservation in situ of two recorded monuments, Portmarnock Mound DU015-014 and Maynestown enclosure DU015-055 were undertaken in relation to permission granted File Ref No. 07A/0947.
- 10.5.12. The mound is to be preserved in situ as Class II open space within the development. A buffer of 20m from the mound will be retained and protected from development. The report indicates that it is within this buffer zone that planting etc. can take place as this will minimise any impact on the below ground remains. This approach has been agreed with the National Monuments Services. It is proposed to promote the significance of the mound through interpretation and appropriate presentation while facilitating public access adding to the social and cultural infrastructure of Fingal. It is set out that all plans for the presentation and interpretation will be agreed with the Department in advance of finalising the works and will be agreed with the County Archaeologist.
- 10.5.13. I would draw the Board's attention to Area 5a, located in the general area of the proposed SuDS feature in the north-east corner along Station Road which has not been excavated to date. Should archaeological remains be found the applicant will

be required to re-locate this proposed detention pond. This can be dealt with by way of condition. Excavation of the ditched enclosure (recorded monument DA15-014) took place (licence no. 16E0613) in January 2017 and the post excavation process is now underway and the preliminary report has been submitted to the authorities.

- 10.5.14. With regard to the outfall, this will be located south of a former mill race channel located along the Coast Road. The report indicates that the mill race channel is approx. 5m in width and 48m in length and is likely to extend further north but is under grass. Section 7.7 of the archaeological report provides a good description of the mill race and area where the outfall is proposed supported with photographs. With regard to the location of the wetland, test excavation was undertaken and no archaeological material or features were revealed.
- 10.5.15. As already noted, the proposal provides for the integration of the recorded monument into the overall open space provision. Section 8 of the archaeological report provides details regarding mitigation measures for entire site. Of note, a licence application and method statement and a commitment of funding by the developer has been submitted to the national monuments service so that the excavation at the north east corner of the application site can be done in a timely manner. With regard to the surface outfall pipe, the regional wetlands area and storm water outfall, it is noted that while an archaeological visual survey has taken place of the foreshore, to date it has not been possible to archaeologically test excavate this area due to logistical and environmental constraints. No work is allowed during the months of November to March due to the presence of the wintering Brent Geese in the bay and all works will have to take place under a Foreshore Licence. All excavation/exploratory work within this area will be archaeologically supervised or investigated as deemed necessary by the National Monuments Service. The Department of Culture, Heritage and the Gaeltacht has recommended that the applicants engage the services of a suitably qualified archaeologist to co-ordinate all the mitigation proposals contained in the report. Accordingly, a condition should be attached to any grant of permission.

#### Sustainable water management

- 10.5.16. It is set out that the proposed development includes the delivery of new surface water management infrastructure incorporating SuDS. This infrastructure includes a

wetland, as well as filter strips, swales, green roofs, porous paving and bio-retention areas. A detention pond is proposed to the north-east corner along Station Road to cater for waters discharging from area identified within catchment 2. The plans indicate that a 1.8m high railing is proposed around this feature which will negate the visual and functional integration of this pond into the overall streetscape at this location. Where a railing is required in the interests of health and safety a 1.2m high railing is considered sufficient size to act as a barrier to the pond.

- 10.5.17. The regional wetland (c. 0.9ha) located within the eastern section of the ecological buffer zone, is an integral component of the SuDS strategy for the site. The LAP which was subject to strategic environmental assessment and appropriate assessment identifies the provision of a wetland as a regional control serving all of the LAP lands. This issue is dealt with in more detail under the services section of this report. The integration of this wetland into the receiving environment and promoting its role within the green infrastructure network is a key consideration. The Planning Authority has raised concerns about the design of the wetland and sets out that it should be re-designed having regard to its located within public open space. The 1.8m high fence proposed to the perimeter of this wetland should therefore be omitted. The planning authority has recommended a condition which details the re-design elements required which should be attached as a condition. In a default of an agreement between the planning authority and the applicant in this regard, it should be specified that the matter be referred to ABP for agreement. The area where the regional wetland is proposed falls within the 'intrinsically dark landscape' E1 as per section 5.7 of the LAP. A public lighting scheme should be agreed with the planning authority so as to ensure protection of the environmentally sensitive areas.

### Conclusion

- 10.5.18. The green infrastructure network is such that will re-inforce a sense of place, integrating existing features and characteristics of the area including the recorded monuments into the overall design of the residential development. The applicant has completed a comprehensive ecological appraisal of the development site and indicates that no rare habitats or habitats of high ecological value are present on the site. No rare plants have been recorded during the site visits to date. No evidence of

bats, badgers, reptiles or amphibians has been recorded and no significant features suitable for use by these species was recorded on or in the vicinity of the site. The section on Appropriate Assessment examines the potential for significant effects on the Natura 2000 sites in view of their conservation objectives. In general, the proposal is considered to ensure the conservation and enhancement of existing archaeological heritage and biodiversity while sustainably managing water in line with the provisions set out in the LAP and providing good quality interconnected network of green areas to serve existing and future population.

## 10.6. Movement and Transportation

### Overview

- 10.6.1. A key objective of the LAP is a sustainable movement and transport strategy with priority on maximising connections to amenities and services. All of the land identified for development within the LAP are within walking distance of the train station thus reducing the need for use of the private car. There is currently a pedestrian access to the train station along its southern boundary with Phase 1(a) of St. Marnock's Bay. The applicant indicates that they are currently liaising with Irish Rail regarding the provision of another access to the train station via the local centre lands. As the local centre is not being provided in this phase of development, I consider that any future access from the local centre lands to the train station can be considered when the lands are developed.
- 10.6.2. There are Dublin bus stops along the Coast Road which are within easy reach by foot of the development site. The development site is also located within walking distance of the retail core of Portmarnock (approx. 650m north-east of site). There are existing footpaths along Station Road, with a proposed new footpath/cycle route along the site frontage, where there is currently no footpath. I also note that Fingal County Council are proposing a new coastal route along the Coast Road which will enhance the movement of pedestrians and cyclists along the Coast Road in the area of the regional park. There is a current application lodged under section 177AE with ABP File Ref. No. 300840-18 in respect of this proposal.

### Vehicular access and trip generation

- 10.6.3. The existing access into St. Marnock's bay is to be modified slightly as part of this application. A secondary access is also proposed to the east of the site along Station Road. The proposal in terms of road layout and widths is considered to be generally consistent with the principles of DMURS. The proposal is considered to have good permeability and connectivity for pedestrians, cyclists and motorists.
- 10.6.4. Concerns have been raised by observers regarding TRICS. The Transportation section of the local authority raises a similar concern in that not all of the inputs and outputs for the TRICS analysis has been included. Consequently, the suitability of the sites selected for the analysis cannot be assessed. As already stated in this report, the local centre is not proposed in this phase of development. It is also noted that the transport section set out that the traffic impact of development was assessed during the development of the LAPs for Baldoyle-Stapolin and Portmarnock South with various works required to surrounding roads infrastructure to ensure capacity. I note that the trip generation and assignment includes consideration of development on the local centre lands and notwithstanding the lack of data, the results indicate that all junctions would still operate within capacity.
- 10.6.5. A traffic and transport assessment was submitted by the applicant. This report sets out that the form and structure of the proposed development will encourage the use of public transport, cycling and walking in preference to the private car. Measures that will be taken to secure this include the provision of:
- A segregated combined cycle and footpath route along the local distributor road and circular cycle route which will connect homes to DART station, commercial area and open space.
  - A network of footpaths that will permeate the residential area and provide a high degree of accessibility to local facilities and to bus and rail transport.

### Parking

- 10.6.6. With regard to parking, two spaces are provided to each of the houses. The Chief Executive's report notes that there is a shortfall of 10 no. visitor spaces to serve the

apartments, however the shortfall is acceptable based on the site's proximity to the train station. Concerns were raised by an observer about the shortfall in parking spaces within the first phase which results in parking on the footpath. Pursuant to inspection, I noted evidence of parking on footpaths. However, a shortfall in parking does not appear to be the issue but rather a preference by residents for parking immediately outside their dwelling. The transport section recommends that the parking areas for the apartment blocks bounding Station Road and the access road to the same parking areas shall be privately managed as part of the apartment management. This can be dealt with by way of condition.

### Conclusion

10.6.7. Having examined the details of the application, I am satisfied that the proposal is acceptable and while the development will contribute to an increase in trip generation along Station Road, there are alternative modes of transport available to the residents i.e. Dublin Bus, DART/train services and walking/cycling. Congestion is a common feature of urban areas and during my inspection I noted a steady flow of traffic along Station Road and the Coast Road however congestion was not an issue. The proposal is considered to be acceptable from a movement and transportation perspective and is not such that would compromise public safety.

## 10.7. **Water and waste water infrastructure**

### Water Supply

10.7.1. The proposed development will be supplied via an existing 250mm water main. Irish Water has indicated that water supply for the proposed development is feasible without upgrades.

### Waste water

10.7.2. The Portmarnock South LAP is part of the North Fringe sewer catchment, from which wastewater is transported to and treated in the Ringsend Wastewater treatment plant. It is proposed to install a temporary pumping station in the north-east corner of the site. A temporary 24-hour storage tank will be provided at the same location to hold back discharges during rainfall events and hence eliminate the impact on the

existing Mayne Road pumping station. The report submitted indicates that agreement has been reached with Irish Water for this connection with 24-hour emergency storage pending the construction of a new Irish Water pumping station to replace the existing Portmarnock Bridge pumping station which has capacity issues. The applicant indicates that the current preferred location of the pumping station is a site to the north west of Portmarnock Bridge roundabout adjacent to the Sluice River. It is indicated that Irish Water has advised that a planning application will be lodged shortly for this pumping station. The applicant also indicates that should Irish Water wish to relocate their proposed new pumping station on the Portmarnock South lands this can be accommodated beside the regional wetland.

- 10.7.3. Once the pumping station is operational, circa quarter three 2019, all flows from the existing phase 1A St, Marnock's development, the proposed development and all future phases will be permanently diverted to the new Irish Water pumping station. Irish Water has responded by setting out that they have reviewed the planning application details and confirm that subject to a valid connection agreement being put in place between Irish Water and the developer, the proposed connection to the Irish Water network can be facilitated.

#### Surface Water Design

- 10.7.4. Details indicate that the foul and storm networks will be on the separate systems. The storm water system for the entire Portmarnock South Lands is divided into two catchments.
- 10.7.5. Catchment 1, with a stated area of 37.55ha, includes the majority of the proposed phase 1B area and drains to the Baldoyle Estuary via the proposed regional wetland and new storm water outfall. The storm water network for catchment no. 1 has been designed to cater for the existing phase 1A, the proposed Phase 1B (this development) and all future phases of the entire development with the exception of lands within Catchment No. 2. The regional wetland will provide attenuation for Catchment 1 with outflows restricted for the 1 year, 30 year and 1000 year critical storm events. I note that the applicant has provided calculations for adjusted water levels, pipe flows and pipe velocities to the regional wetland should Irish Water

decide to locate the pumping station on these lands. The outfall from the wetland will discharge to the Baldoyle Estuary. It is indicated that the outfall structure has been designed to be outside the Annex 1 Habitat area of the Estuary. This matter is considered further under the heading 'Appropriate Assessment'.

10.7.6. With regard to Catchment 2, an area of 1.77ha located to the north of the site along Station Road, flows from this area discharge via the proposed detention pond to the existing 300mm surface water sewer in Station Road prior to discharge to Baldoyle estuary.

10.7.7. A number of SuDS measures are proposed including:

- Permeable paving for private driveways and footpaths,
- Water butts for the individual units for car washing, garden and plant watering
- Individual soakways in rear and front gardens
- Bio-retention areas within public open spaces
- Swales running along road carriageways
- Detention pond for catchment no. 2
- Storm water regional wetland

10.7.8. The Chief Executive's report indicates that the design of the wetlands feature was raised during the section 247 meetings and the design features have not been altered so as to ensure the wetland has the appearance of a habitat associated with a wetland. The provision of a 1.8m high fence to both the detention pond and the regional wetland is inappropriate and would be visually incongruent at both locations. The planning authority has outlined alternative safety measures to these areas such as the planting of reeds/bull rushes to make a pond more difficult to access. It is considered that this can be dealt with by way of condition. Having regard to the Chief Executive's report and supporting inter-departmental reports, the information submitted by the applicant and mitigation measures proposed which are considered consistent with the LAP, I am satisfied that the proposal would not have a significant environmental impact with regard to the discharge of surface waters. With regard to



the observation that raises concerns about accumulation of surface water within the constructed phase, I did not observe any such accumulation within the permitted phase. Further, where there is an issue of such, I consider that this is a matter that should be referred to the enforcement section so as to ensure compliance with all conditions of the permitted development.

#### 10.7.9. Conclusion

Pursuant to consideration of all the documentation on file and submissions received in respect of the development including the inter-departmental reports which informed the Chief Executive's report, I consider that the proposed water and waste water infrastructure arrangements to serve the development is acceptable subject to appropriate conditions. The surface water management proposals are considered to be consistent with the provisions of the Portmarnock South LAP and provide for the provision of the wetland area and detention basin which will each serve a particular catchment area.

### 10.8. **Other Issues**

#### 10.8.1. Part V

A letter has been enclosed with the application setting out that it is intended to provide 15 units to the local authority so as to comply with Part V obligations. It is intended to provide seven no. two bed and seven no. three bed duplex units in phase 1 along with one three bed unit in phase 2 of the proposed development.

#### 10.8.2. Childcare Facilities

The applicant is not proposing any childcare facilities as part of this application. The LAP provides that no childcare facilities to be provided on the lands due to the 'Outer Public Safety Zone' of Dublin Airport.

#### 10.8.3. Phasing

It is proposed that the development would be carried out in two phases. The first phase consists of the apartments along Station road and phase two consists of the remaining units and the linear park/inter monumental route. The proposed phasing is

considered acceptable delivering the pedestrian/cycle path along the Station Road in phase 1. Surface water from this part of the development discharges to the detention pond as opposed to the wetlands which is proposed in phase 2.

### 10.8.3 Taking in Charge

Plans of the areas to be taken in charge have been submitted. It is noted that it is intended for all public open space areas and roads to be taken in charge. The wetland and detention pond are also to be taken in charge. It is not intended for the parking spaces to the front of the apartments along the road to be taken in charge. The transportation department has recommended that the internal road, a cul-de-sac serving the apartments, should not be taken in charge but managed privately. This can be dealt with by way of condition.

## 10.9. **Appropriate Assessment**

### 10.9.1. General

A Natura Impact Assessment was submitted with the application. A description of the site area and proposed development is provided. Reference is made to the significant measures put in place for phase 1 (constructed development) so as to mitigate any potential impact on the Special Conservation interests and qualifying interests of Baldoyle Bay SAC and SPA.

10.9.2. The report identifies the following sites within the vicinity of the proposed development.

Table 3: Natura 2000 sites within 15kms of Site

<b>Natura 2000 Site</b>	<b>Site Code</b>	<b>Distance to site (as crow flies)</b>
Baldoyle Bay SAC	000199	0m (outfall into estuary)
Baldoyle Bay SPA	004016	0m (outfall into estuary)
Malahide Estuary SAC	000205	2.3km north of site
Malahide Estuary SPA	004025	2.9km north of site
North Dublin Bay SAC	000206	3.3km south of site

North Bull Island SPA	004006	3.4km south of site
Ireland's Eye SPA	004117	4.6km east of site
Rockabill to Dalkey Island SAC	003000	4.7km east of site
Ireland's Eye SAC	002193	4.9km east of site
Howth Head SAC	000202	5.5km south east of site
Howth Head SPA	004113	6.5km south east of site
South Dublin Bay and River Tolka Estuary SPA	004024	7.1km south
South Dublin Bay SAC	000210	8.8km south
Rogerstown Estuary SPA	004015	8.6km north
Rogerstown Estuary SAC	000208	8.8km north
Lambay Island SAC	000204	10.7km north east
Lambay Island SPA	004069	10.6km north east
Dalkey Islands SPA	004172	15.7km to the south

10.9.3. The screening report rules out all but four sites for consideration due to the location of the proposed development as well as its nature and scale of development. The remaining sites are as follows: Baldoyle Bay SAC and SPA, North Bull Island SPA and Malahide Estuary SPA. The NIS sets out the reasons for their designation and identifies potential source-pathway-receptors between the development site and each Natura 2000 site. It is submitted that with regard to the Baldoyle Bay SAC and SPA, there is a potential link between the sites via disturbance during construction and operation, emissions to water and potentially habitat loss within the SAC. The applicant identifies potential links between the Malahide Estuary SPA and North Bull Island SPA and considers that significant likely effects cannot be ruled out.

10.9.4. As identified in Table 3, there are a number of European sites located within a 15 kilometre range of the proposed project. Site synopsis and conservation objectives

for each of these Natura 2000 sites are available on the NPWS website and the most relevant i.e. Baldoyle SPA and SAC, Malahide and North Bull Island SPA's are enclosed as an Appendix for ease of reference by the Board. In particular, the attributes and targets of these sites are of assistance in completing the AA for this project. I agree with the applicant that it is possible to screen out all of the listed sites save for the Baldoyle SAC and SPA. I will also consider the interconnectivity of the Baldoyle SAC and SPA with Bull Island SPA and Malahide Estuary SPA.

Consideration of the likely and significant effects on Baldoyle SAC and SPA

10.9.5 The Baldoyle SAC and SPA is located approx. 300m from the nearest residential units proposed on the site. The SAC and SPA area overlap and the conservation objectives for these sites should be used in conjunction with each other. The wetland area is proposed in an area directly opposite the estuary with the public road between the two sites. Given the proximity of the site and the nature of the proposed works, primarily the proposal to have an outfall from the wetlands to the estuary, the assessment of the likely adverse effects, if any, should be considered in detail.

10.9.6 The identified features of interest of the Baldoyle SAC are as follows:

- Mudflats and sandflats not covered by seawater at low tide [1140]
- Salicornia and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

The data available from the NPWS website indicates that the Baldoyle SAC is a typical eastern estuarine system with fairly extensive intertidal sand and mudflats. The salt marshes are well represented and are at least of moderate quality. The Standard Data Form indicates that a site-specific management plan does not exist.

10.9.7 The qualifying interests of Baldoyle SPA are as follows:

- Brent Goose
- Shelduck
- Ringed Plover
- Golden Plover

- Grey Plover
- Bar-tailed Godwit
- Wetlands

There is one area of encroachment onto the Baldoyle SAC and SPA, which is the outfall to the estuary identified on drawing no. Y17205-C-201 and Y17205-C-204. The area of encroachment is immediately adjacent to an existing culvert.

10.9.8 A key aim of the Habitats Directive is to 'maintain or restore the favourable conservation status of habitats and species of community interest'. As the applicant indicates, the integrity of the site is the coherence of its ecological structure and function across its whole area which enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified. The NIS provides an appraisal of potential impact on European sites during both the construction and operational stage. These impacts include release of contaminated surface water and other contaminants including dust; potential loss of feeding grounds on open agricultural and amenity grassland as well as other habitats that may pose a temporary risk, resulting in potential effects on the special conservation interests of the four sites. Disturbance to birds such as noise, vibration, physical or visual disturbance may also pose a temporary risk resulting in potential effects on the special conservation interests of the sites.

10.9.9 The applicant has indicated that the measures prescribed in Objective GI 12 of the Portmarnock South LAP 2013 (i.e. agreed habitat protection measures) have been implemented as part of the Portmarnock phase 1A development and are subject to ongoing monitoring and management. These measures seek to prevent any changes in bird populations due to any reduction in available feeding habitat or disturbance. The provision of new dedicated grassland areas in quiet zone lands that have been designed to provide feeding habitat for the birds of Baldoyle Bay SPA will avoid any significant impacts on feeding habitats and disturbance to birds during roosting or feeding. The applicant sets out that potential impacts on habitat quality within Baldoyle Bay SPA due to changes in water quality and water flows will be avoided by appropriately designed construction and water management measures.

10.9.10 The development of the surface water outfall, together with its concrete headwalls and apron will require the removal of c. 43sq.m. of habitat within the site boundary of

Baldoyle Bay SPA and SAC. It is set out that the habitat to be removed comprises an area of dry/neutral grassland and scrub that occurs largely on the verge between the road itself and the mudflats and saltmarsh habitats that are qualifying interests of the SAC. The applicant indicates that the protected species Borrer's saltmarsh-grass (*Puccinellia fasciculata*) and meadow barley (*Hordeum secalinum*) were not recorded within the study area. I note that the document 'Baldoyle Bay SAC (site code 199) Conservation Objectives supporting document – coastal habitats' published by the NPWS in 2012 supports this statement.

- 10.9.11 Design details pertaining to the headwall/outfall indicate that no structures will be constructed within an area of Annex 1 habitat. The applicant has also indicated that this exclusion from Annex 1 habitat will be further reaffirmed prior to construction works by means of an additional pre-construction survey. It is set out that this area is also not suitable for feeding by birds including the light-bellied Brent geese. Pursuant to site inspection, I would tend to agree with this statement as the said area is particularly close to the public (regional) road
- 10.9.12 With regard to surface and foul water the applicant identifies that there is the potential for any change in surface water flows arising to cause scouring or erosion of habitats within Baldoyle SAC. The modelling exercise undertaken by RPS Ltd. conclude that the storm water outfall will have no significant impact on the overall flow regime of the Baldoyle estuary. A flood risk assessment has also been submitted with the application and I am satisfied that there is little risk of flooding.
- 10.9.13 The NIS outlines mitigation measures to be implemented during the construction and operational stage. It is noted that it is proposed to engage an ecologist for the duration of works on site. The archaeological report also makes reference to archaeological excavations of the outfall area prior to commencement of any development.
- 10.9.14 The Heritage Officer for the Council indicates that the applicant has undertaken a thorough assessment of the potential impacts of their project on European sites and is satisfied based on the analysis and ecological assessment presented in the NIS that the proposed project will not, either alone, or in combination with other plans and projects, adversely impact on European sites. The Heritage Officer recommends that an additional condition be attached to any grant of permission requiring appropriate

measures to be in place to prevent the spread of the invasive species Common Cordgrass as recommended in Appendix 3 of the NIS (report on Marine and Coastal Habitats prepared by BEC Consultants).

#### 10.9.15 Interconnectivity between the Natura 2000 sites

The Board should note that due regard has been given to the interconnectivity of the Natura 2000 sites in supporting and sustaining bird species and in particular those listed on the special conservation interests for Baldoyle SPA, Malahide Estuary SPA and Bull Island SPA. I am satisfied that there is no loss to any of the qualifying interest habitats. It is considered that the proposal would not adversely affect the integrity of the Baldoyle SAC and SPA in view of the site's conservation objectives or impact on bird species afforded protection under the Habitat Directive or the Wildlife Acts. Consideration has also been given to noise or light pollution which may have an impact. The LAP has assigned categorisations to areas of the LAP lands in respect of public lighting so as to ensure the integrity of bird feeding grounds are not compromised. This can be reinforced through condition. I am satisfied that there is no impact on the interconnectivity between the various SPA sites in that existing feeding and habitat areas remain unaltered and will continue to be available to the listed species.

#### 10.9.16 AA determination – Conclusion

Having regard to the Natura Impact Statement, supporting documentation submitted with the SHD application, the Chief Executive's report and interdepartmental reports, I consider that the proposed development would not result in the loss of any Annex 1 habitat or any Annex II species. The proposed drainage arrangement i.e. outfall would not give rise to any significant change in the existing hydraulic nature of the Baldoyle Estuary. The LAP provides for a detailed green infrastructure network including SuDS measures which will as local and regional controls. The proposal is consistent with the provisions of the LAP which was subject to SEA and AA in this regard. The mitigation measures proposed are such that will ensure the maintenance of the favourable conservation conditions of each of the qualifying interests and/or species. It is therefore concluded that subject to the carrying out of the proposed mitigation measures in the NIS that there would be no adverse impact on the

integrity of the Baldoyle SPA or SAC or other Natura 2000 site within the 15km range of the development project.

## 11.0 Recommendation

I recommend that permission be **granted** for the proposed development subject to the following conditions:

## 12.0 Reasons and Considerations

Having regard to

- (i) the site's location on lands with a zoning objective for residential development in the Fingal County Development Plan,
- (ii) the nature, scale and design of the proposed development which is consistent with the provisions of the Portmarnock South Local Area Plan,
- (iii) to the Rebuilding Ireland Action Plan for Housing and Homelessness,
- (iv) to the provisions of the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- (v) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing and Planning and Local Government, March 2018,
- (vi) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013,
- (vii) the availability in the area of a wide range of social infrastructure,
- (viii) to the pattern of existing and permitted development in the area, and
- (ix) to the submissions and observations received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential



or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

In the default of agreement the matter(s) in dispute may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) Access shall be provided to the rear patios of the ground floor apartments along Station Road from both bedrooms or an alternative means of access to the patio shall be provided subject to the written agreement of the planning authority.

(b) Provision of covered bicycle stands to serve the duplex apartments.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of residential amenity.

3. Prior to commencement of development, the developer shall submit a schedule of Ecological Mitigation Measures as detailed in the Natura Impact Statement (including supporting Appendices) and Ecological Appraisal submitted with the application. The schedule shall set out the timeline for implementation of each measure and assign responsibility for implementation. All of the mitigation measures shall be implemented in full and within the timescales stated.

**Reason:** In the interests of clarity, protection of the environment and the proper planning and sustainable development of the area.

4. A suitably qualified ecologist shall be appointed by the developer to oversee the site set-up and construction of the proposed development and the ecologist shall be present on site during construction works pertaining to the wetlands and outfall to the estuary. The ecologist shall ensure the implementation of all measures contained in the Schedule of Ecological mitigation measures. Prior to commencement of development, the name and contact details of said person shall be submitted to the planning authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the County Council to be kept on record.

**Reason:** In the interest of nature conservation, to prevent adverse impacts on the European sites and to ensure the protection of the Annex I habitats and Annex II species and their Qualifying Interests for which the sites were designated.

5. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works.

**Reason:** In the interest of residential and visual amenity.

6. The Giant Hogweed (*Heracleum mantegazzianum*) Management Plan set out in Appendix 2 of the Ecological Appraisal shall be implemented for a further three years following commencement of development on site.

**Reason:** In the interests of nature conservation, public safety and to ensure the protection of the Annex I habitats and Annex II species and their Qualifying Interests for which the sites were designated.

7. The wetlands/SuDS features proposed shall be amended as follows:
  - (a) 1.8m high fence shall be omitted
  - (b) Provision of staging and wet benches to allow for access/egress from the wetlands
  - (c) Provision of a small wooden kneeler fence or similar around the edge of the wetland feature to delineate the feature from surrounding level ground
  - (d) The design of the larger eastern wetland shall provide for incorporation of the permanent waste water pumping station, if required following final decision of location by Irish Water.
  - (e) A detailed planting scheme to provide for suitable aquatic planting within and at the edge of the wetland features to aid habitat provision and to restrict ease of access to the elements of the wetland which contain permanent standing water.

**Reason:** In the interests of nature conservation, public safety and the visual amenities of the area.

8. Prior to commencement of development, the developer shall submit details of all boundary treatment for the agreement of the planning authority. This shall include boundaries between rear gardens and boundaries to the exterior of the site. All concrete and timber panel fences to be replaced with solid block walls. All block walls to be rendered on both sides.

**Reason:** In the interest of residential privacy.

9. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the

planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of orderly development.

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

**Reason:** In the interest of public health and to ensure a proper standard of development.

11. The internal noise levels, when measured from bedroom windows of the proposed development, shall not exceed:

(a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and

(b) 30 dB(A) LAeq at any other time.

A scheme of noise mitigation measures, in order to achieve these levels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the proposed dwellings are made available for occupation.

**Reason:** In the interest of residential amenity.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site, co-ordinate all the mitigation proposals contained in the archaeological assessment and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

13. The internal road network, public footpaths within and outside the proposed development site, including car parking provision to service the proposed development, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure a satisfactory standard of development.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the

provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

15. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall comply with the categorisation system contained in section 5.7 of the Portmarnock South Local Area Plan. Public lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of residential amenity and nature conservation.

16. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Planning Authority's Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** In the interest of the amenities of the occupants of the proposed housing.

17. (a) Prior to commencement of development, a revised Taking in Charge plan shall be submitted which omits the internal road (cul-de-sac) and parking along this road which serves the apartments from those areas to be taken in charge.

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

(c) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have

responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act, 2000 (as amended).

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

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

20. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of the proper planning and sustainable development of the area.

21. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other



security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

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Joanna Kelly  
Senior Planning Inspector

13 March 2018