

An  
Bord  
Pleanála

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

### **Inspector's Report ABP-308088-20**

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#### **Strategic Housing Development**

224 no. apartments and associated site works.

#### **Location**

Garters Lane, Saggart, Co. Dublin.  
([www.garterslaneshd.com](http://www.garterslaneshd.com))

#### **Planning Authority**

South Dublin County Council

#### **Applicant**

Cape Wrath Hotel ULC

#### **Prescribed Bodies**

1. Irish Water.
2. Irish Aviation Authority.
3. Airport Operator (Department of Defence).
4. Transport Infrastructure Ireland.
5. National Transport Authority.
6. Coras Iompair Eireann,

7. Transdev.
8. Minister for Culture, Heritage and The Gaeltacht.
9. The Heritage Council.
10. An Taisce.
11. South Dublin Childcare Committee

**Observer(s)**

1. Clapton (Ireland) Limited.
  2. Raymond Charters.
  3. Inland Fisheries Ireland
- And 5 other Prescribed Bodies.

**Date of Site Inspection**

26<sup>th</sup> November 2020.

**Inspector**

Daire McDevitt

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## 1.0 Introduction

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 proposed development is located on an overall site of 1.184 hectares adjacent to two larger sites that are currently under construction for houses to the north or have been granted permission for apartments to the east. Saggart Village is c. 600m south-west of the site. The site is bound by Fortunestown Lane to the south and Garter Lane to the west. To the east of the site is a construction compound for development that is currently under construction to the north. Saggart Luas stop /Luas Red Line is located to the south and east of the site. There is a school located to the northeast and a proposed educational/school campus is located to the south which is the subject of a current appeal.
- 2.2 The subject site is level and has in the past acted as a site compound for Luas works and remnants of the hardcore remain. There is very little vegetation within the interior but there are mature hedgerows along the site boundaries. There is a gated entrance, currently blocked by bollards off Garter's Lane.
- 2.3 Access to the N7 southbound is available travelling north on Garter Lane. Access to the N7 northbound from the interchange at Brownsbarn.

## 3.0 Proposed Strategic Housing Development

The proposed development comprises 224 units provided in four apartment blocks between 4 and 8 storeys on 1.184 Hectares, the details are as follows

Parameter	Site Proposal
Site Area	1.184 hectares
No. of Units	224 Apartments in 4 no. blocks.
Density	190 units per hectare

Height	<p>Range from 4 storey (c.13m) to 8 storey (c.24m).</p> <p>Block A: 6 storey + 2 storey penthouse (forming an 8 storey tower element addressing corner).</p> <p>Block B: 6 storey.</p> <p>Block C: 6 storey.</p> <p>Block D: 4 storey + 1 storey penthouse.</p>
Aspect	Dual aspect 116 units (51.8%)
Amenity Space	<p>Private: Balconies &amp; terraces.</p> <p>Communal: Landscaped Courtyards (c. 2950sq.m) &amp; 4 no. Children's Play Areas (c.890sq.m).</p> <p>Public: a. 2720sq.m linear area to the west that includes retained hedgerow, cycle and pedestrian connections.</p> <p>Landscaping features to include seating, vertical element art works, timber &amp; metal pergola located along the eastern boundary and extending inwards towards the communal areas.</p>
Parking (surface & Basement level)	<p>Car: 191 spaces of which 180 are at basement level. (car parking ration is 0.8 spaces per unit).</p> <p>Bicycle:470 spaces at basement and surface level with a single storey bike store (c.72sq.m) located at the north west of the site.</p>
Vehicular Access	<p>Off Garter's Lane extending eastwards through the centre of the site and integrating with the adjoining permitted development to the east.</p> <p>Access to the basement level is off this central route.</p>
Part V	34 apartments in Block D.
Childcare	None.

Unit Mix:

Unit Type	Block A	Block B	Block C	Block D	Total	% of Total
1 bed	18	30	13	21	82	36.6
2 bed	24	20	54	23	121	54
3 bed	6	10	5	0	21	21
Total	48	60	72	44	224	100%

The proposal also includes:

- A single storey ESB substation located at the north western corner.
- Hard & Soft landscaping,
- Pedestrian & Cycle links.
- Boundary treatments.
- Public Lighting.
- Commercial & Residential waste facilities.
- Piped site wide services and all ancillary works and services necessary to facilitate construction and operation.

Public Notices submitted. This include reference to A Statement of Consistency and a statement to justify a material contravention.

- Letter from South Dublin County Council regarding Part V discussions with 'Tetrarch Capital Limited'. I note that the applicant for the application before the Board is 'Cape Wrath Hotel ULC' which I note shared the same postal address.

## 4.0 Planning History

**Subject Site:**

I note two historical applications for the site which were the subject of appeals. There is no record of more recent applications as per the Council's Planning Register or noted in the South Dublin County Council's Chief Executive's report.

**PA File Ref. SD03A/0322 (ABP ref PL06S.206433):** Applicant: H.S.S Limited.

Refers to a 2004 decision to refuse permission for 76 golf apartments for the following reason:

*The site of the proposed development is located in an area zoned 'F' in the current development plan for the area, where it is an objective of the planning authority to preserve and provide for open space and recreational amenity. This zoning objective is considered reasonable. The proposed golf apartment block, by reason of its scale and its location peripheral on the site in excessively close proximity to the N7 dual carriageway and with vehicular access through an existing car parking area, would be visually obtrusive and would seriously injure the amenities of this area zoned 'to preserve and provide for open space and recreational amenities'. The proposed development would constitute an unintegrated form of development and would materially contravene the zoning provisions of the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.*

**PA File Ref. SD04A/0977 (ABP ref PL06S.211460):** Applicant: H.S.S Limited.

Refers to a 2005 decision to refuse permission for 60 golf apartments for the following reason:

The site of the proposed development is located in an area zoned 'GB – to preserve a green belt between developments areas', in the current South Dublin County Development Plan. This zoning objective is considered to be reasonable. Having regard to its scale and nature, it is considered that the proposed development would contravene materially the zoning objective indicated in the development plan and would be contrary to the proper planning and sustainable development of the area.

**Adjacent sites:**

**File Ref. ABP-305563-19–** (SHD Application) refers to a grant of permission for 488 apartments, creche and associated site works.

**File Ref. ABP-300555-18** – permission for 526 dwelling units (459 terraced units and 67 duplex/apartments), parks, vehicular access, pedestrian links and all associated site works.

**SHD Applications in the vicinity:**

**ABP 306602-20** refers to a grant of permission for 463 no. residential units (89 no. houses, 353 no. apartments and 21 no. duplex and creche) at Citywest Road and Magna Drive, Fortunestown, Citywest, D24.

**ABP Ref. 302398-18** refers to a grant of permission for 459 no. dwellings, vehicular access provided from new central section of Citywest Avenue including replacement roundabout, temporary pedestrian link to Fortunestown Luas Stop and associated site works at Cooldown Commons and Fortunestown, Citywest, D24.

**ABP 304828-19** refers to a decision to refuse permission for 609 no. residential units (267 no. houses, 158 no. duplex units and 184 no. apartments) and crèche on lands at Boherboy, Saggart Road, Co. Dublin.

**Other applications in the vicinity:**

**PA File ref. SD19A/0393ABP File ref 308569-20** refers to a current appeal (due for decision March 2021) for a New Educational Campus of 2 new school buildings to be delivered on a phased basis including the demolition/removal of the existing 4 four storey educational/former short stay residential blocks (golf apartments) on the site; provision of 1 part three storey, 1000 pupil post primary school including 4 classroom special educational needs unit with a gross floor area of 11,331sq.m including a sports hall and all ancillary teacher and pupil facilities; 1 two storey 16 classroom primary school and 2 classroom special educational needs unit; a general purpose hall and all ancillary teacher and pupils facilities with a gross floor area of 2,820sq.m; vehicular access to the site will be from the existing Fortunestown Lane entrance, which is to be widened; fire tender and delivery access will be from the existing entrance to the northwest of the site, via Fortunestown Lane; cycle and pedestrian access to the site will be from a new entrance on Fortunestown Lane; provision of bicycle and scooter parking; new pedestrian crossing at Saggart Lakes Road, vehicle drop off/set down areas; internal access roads; hard and soft play areas; piped infrastructure and ducting; plant, landscaping and boundary treatments; PV panels; external courtyards; disabled car parking spaces; ESB substation and 1 substation



access door to the site boundary wall on Fortunestown Lane; ancillary ramps and stairs; signage; 1 attenuation tank; flood mitigation measures; SUD's; changes in level and all associated site development and excavation works above and below ground

**PA File Ref. 14A/0121** Permission granted for 224 residential units including 397 car parking spaces, stand-alone crèche and a neighbourhood park with children's playground at Cooldown Commons, Fortunestown.

**PA File Ref. SD15A/0095** Permission granted for revisions/modifications to the permitted 224-unit residential development. This permission provided for alterations to permitted house types and a minor re-alignment of internal access roads and revised private gardens at Cooldown Commons, Fortunestown Lane, Fortunestown.

**PA File Ref. PL.06S.247507 / SD16A/0297** Permission granted on appeal for modifications to development permitted by File Ref. No. SD15A/0095 from 12 dwellings to 24 no. apartments. The appeal related to the northern most area of the overall lands where a residential development was permitted at Cooldown commons, Fortunestown Lane, Fortunestown.

**PA File Ref. SD16A/0255** Permission granted for two 2-storey primary school buildings. School 1 comprises 16 classrooms, 2 classroom Special Needs Unit, support teaching spaces and ancillary accommodation with a total floor area of 3180sq.m. School 2 comprises 16 classrooms, 2 classroom Special Needs Unit, support teaching spaces and ancillary accommodation with a total floor area of 3130sq.m. The site works to the school grounds will consist of 2 no. 15sq.m external storage buildings, bin stores, playing pitch, ball courts, project gardens, cycle storage, landscaping and boundary treatment and all other associated site development works for each school. The works to the remainder of the school consist of the provision of 63 car parking spaces, drop-off and pick-up facilities at Cooldown Commons, Fortunestown.

## **5.0 Section 5 Pre Application Consultation**

A Section 5 pre application consultation took place at the offices of An Bord Pleanála on the 26<sup>th</sup> June 2020. Representatives of the prospective applicant, the planning

authority and An Bord Pleanála were in attendance. Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority An Bord Pleanála issued notification (ABP 3070862) that it was of the opinion that the documentation submitted **constitutes a reasonable basis for an application** under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

The prospective application was advised that the following specific information should be submitted with any application for permission:

1. A comprehensive suite of reports, drawings, computer generated images and photomontage imagery that satisfactorily shows and illustrates the manner in which the proposed development will integrate with existing and permitted development in the vicinity. In particular the documentation should include:
  - (a) Cross section drawings at various interface points along Garter Lane, the Luas line and the eastern boundary of the site that incorporates vehicle access ramps and permitted development.
  - (b) A detailed landscaping plan for the site which clearly sets out proposals for play areas, hard and soft landscaping including street furniture where proposed and indicates which areas are to be accessible to the public. The landscaping plan should critically assess the best and most appropriate way to incorporate underground car parking access ramps and other public realm interventions at the site boundaries and along the Luas line.
2. A Daylight/Sunlight analysis, showing an acceptable level of residential amenity for future occupiers and neighbours of the proposed development, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. Specific regard should be had to ground floor apartments at sensitive locations and existing and permitted adjacent properties. Drawings that detail dual aspect ratios should be clearly laid out and accompanied by a detailed design rationale report.

3. Given the location and availability of public transport, a rationale for the proposed car parking provision should be prepared, to include details of car parking management, car share schemes and a mobility management plan.
4. The following reports that address all aspects of building appearance and durability:
  - (a) A report that specifically addresses the proposed materials and finishes and the requirement to provide high quality and sustainable finishes and details Particular attention is required in the context of the visibility of the site and to the long-term management and maintenance of the proposed development.
  - (b) A life cycle report shall be submitted in accordance with section 6.3 of the Sustainable Urban Housing: Design Standards for New Apartments (2018).
5. A housing quality assessment which provides the details regarding the proposed apartments set out in the schedule of accommodation, as well as the calculations and tables required to demonstrate the compliance of those details with the various requirements of the 2018 Guidelines on Design Standards for New Apartments including its specific planning policy requirements.
6. Additional drainage details for the site having regard to the requirements of the Water Services Planning Report as indicated in their report dated 20 May 2020 and contained in Appendix C of the Planning Authority's Opinion. Any surface water management proposals and other technical aspects of the proposal should be considered in tandem with any Flood Risk Assessment, which should in turn accord with the requirements of 'The Planning System and Flood Risk Management' (including associated 'Technical Appendices'), as necessary.
7. A site layout plan showing which, if any, areas are to be taken in charge by the planning authority, and a detailed public realm strategy that outlines the provision of durable and acceptable materials and finishes that comply with the technical requirements of the planning authority. The applicant shall clarify how the works in the public realm will be carried out and by whom.

8. A detailed Construction Traffic Management Plan should be prepared with specific reference to the proximity of the site close to the Luas Line.

9. Construction and Demolition Waste Management Plan.

A list of prescribed bodies that should be notified in the event of making an application were advised to the applicant and included Irish Water, Irish Aviation Authority, Airport Operator (Department of Defence), Transport Infrastructure Ireland, National Transport Authority, Coras Iompair Eireann, Transdev, Minister for Culture, Heritage and The Gaeltacht, The Heritage Council, An Taisce, and South Dublin Childcare Committee

### **Applicant's Statement**

A statement of response to the Pre-Application Consultation Opinion (ABP 307086-20) was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. This statement provides a response to each of the specific items requested to be submitted with the application.

#### Item No. 1

- a) A range of cross sections have been prepared by Darmody Architects to clearly depict the interface points between the proposed development and the surrounding area. Refers to the Contextual drawings No. PA-200, PA201, PA202 and PA203.
- b) A detailed Landscape Architect's Report prepared by Murray and Associates accompanies the submission which outlines the materials and planning proposed as part of the landscape plan for the proposed development. Breakdown of public open spaces, communal open spaces and play areas is also provided. Details of boundary treatments and the proposed pergola structure also included.

#### Item No. 2

- A detailed Daylight and Sunlight Assessment Report has been carried out by 3D Design Bureau and submitted.
- Architectural drawings clearly identify units benefiting from dual aspect.
- It is considered that the proposed scheme provides a high quality design which provides a high level of residential amenity vis a vis sunlight and daylight to future occupiers and neighbours of the proposed development.

### Item No. 3

- A total of 191 car parking spaces are proposed for the scheme. This includes 180 no. spaces at basement level for resident use only and 11 no. spaces at surface level for visitor use. The proposed quantum of parking equates to 0.8 spaces per residential unit. The adjoining SHD residential scheme (ABP Ref. PL.065.305563) permitted by An Bord Pleanála on the adjoining site in February 2020 providing a car parking ration of 0.79 spaces per unit. As such there is a precedence.
- It is considered that the quantum of car parking provision strikes an appropriate balance for a greenfield site which is well served by high quality transport. Further rationale is set out in the Transportation Assessment Report prepared by NRB Consulting Engineers.
- A preliminary Travel Plan (Mobility Management Plan – MMP) prepared by NRB Consulting Engineers submitted with the application.
- The MMP notes that the site is served by high quality transport infrastructure such as the LUAS red line and Dublin Bus routes. The surrounding area comprises a well-developed pedestrian and cycle network. The scheme will be promoted as a ‘reduced car dependency’ scheme and this will be communicated from the offset as part of the sales and marketing.

### Item No. 4

- a) Details of the proposed materials and finishes are provided within the submitted Architectural Design Statement.
- b) A Building Life Cycle Report prepared by Renaissance Engineering is enclosed.

### Item No. 5

- A Housing Quality Assessment has been prepared and submitted.

### Item No. 6

- Refer to Engineering Services Report and Site Specific Flood Risk Assessment prepared by CS Consulting submitted with the application.
- The SSFRA confirms that the site is located in Flood Zone C.

### Item No. 7

- A Taking in Charge Map is submitted.
- The Public Realm Strategy is addressed in the Landscape Architect’s Report

#### Item No. 8

- A Stage 1 Construction Management Plan has been prepared and submitted.

#### Item No. 9

- A Construction and Demolition Plan has been prepared and submitted.

The applicant has also submitted a response to the issues raised by South Dublin County Council in their opinion pertaining to Community Infrastructure and Building Height.

On balance the applicants are of the view that all issues raised during pre-application consultation have been successfully addressed in the proposal now before the Board and that the subject site represents the opportunity to deliver a significant quantum of much needed residential accommodation in Fortunestown in addition to an improved public realm and pedestrian/cycle linkages.

## **6.0 Relevant Planning Policy**

### **6.1 National**

#### **Project Ireland 2040 - National Planning Framework**

Chapter 4 of the Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it is considered will assist in achieving same. National Policy Objective 4 sets out to ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being

The directly relevant National Policy Objectives as contained within the NPF include:

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

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

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

National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

Chapter 6, entitled 'People Homes and Communities' includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

National Policy Objective 57 sets out to enhance water quality and resource management, this includes the requirement to ensure that flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities.

## **Section 28 Ministerial Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant S.28 Ministerial Guidelines are:

- ‘Urban Development and Building Height, Guidelines for Planning Authorities’. 2018
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ 2018
- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’)
- ‘Design Manual for Urban Roads and Streets’ (DMURS)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)
- ‘Childcare Facilities – Guidelines for Planning Authorities’

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

## 6.2 Regional

### **Eastern and Midland Regional Assembly - Regional Spatial and Economic Strategy 2019-2031 (EMRA-RSES)**

The RSES provides a development framework for the region through the provision of a Spatial Strategy, Economic Strategy, Metropolitan Area Strategic Plan (MASP), Investment Framework and Climate Action Strategy.

The Dublin MASP is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area.



The strategy for the sequential development of the metropolitan area is focussed on: To achieve ambitious compact development targets of at least 50% of all new homes within or contiguous to the existing built up area in Dublin and 30% in other settlements, the MASP identifies strategic residential, employment and regeneration development opportunities on the corridors along with the requisite infrastructure investment needed to ensure a steady supply of sites in tandem with the delivery of key public transport projects as set out in the NDP. Strategic development corridors are identified including the City Centre within the M50; North-South Corridor (DART expansion); North-West Corridor (Maynooth/Dunboyne line and DART expansion); Southwest Corridor (Kildare Line, DART expansion and Luas red line); and Metrolink – LUAS Corridor (Metrolink, LUAS greenline upgrades). The site is located along the Luas redline, which is a ‘strategic development corridor’.

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

**RPO 5.4:** Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines and ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

**RPO 5.5:** Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.

## 6.3 Local

### South Dublin County Development Plan 2016-2022

The South Dublin County Development Plan is the statutory plan for the area. The site also forms part of the lands identified in the Fortunestown Local Area Plan 2012-2018 (extended).

- The lands are zoned Object **RES-N** the objective of which is “to provide for residential communities in accordance with approved area plans”.
- The site also falls within the within the zone of archaeological potential of Saggart Village.
- In the settlement hierarchy, Saggart/Citywest is designated as an Emerging Moderate Sustainable Growth Town where it is Council policy to support and facilitate development on zoned lands on a phased basis subject to approved LAP’s.
- **Chapter 2** of the Plan outlines policies and objectives in relation to new housing and includes objectives relating to urban design, densities, building heights, mix of dwelling types and open space. In particular, **section 2.2.2** of the South Dublin Development Plan sets out that densities should take account of the location of a site, the proposed mix of dwelling types and the availability of public transport services. As a general principle, higher densities should be located within walking distance of town and district centres and high capacity public transport facilities.
- **Policies H8 Objectives 1 and 2** promote higher densities at appropriate locations.

#### **Policy 8 Residential Densities:**

##### **“H8 Objective 1:**

To ensure that the density of residential development makes efficient use of zoned lands and maximises the values of existing and planned infrastructure and services, inclusion public transport, physical and social infrastructure, in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

## **H8 Objective 2:**

To consider residential densities at appropriate locations that are close to Town, District and Local Centres and high capacity public transport corridors in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).”

- Development Management Standards are included in Chapter 11.

### **On December 9th 2019, SDCC made Variation No. 4 Alignment with the Regional Spatial and Economic Strategy (RSES) to the South Dublin County Council Development Plan 2016-2022.**

Saggart is designated a Self Sustaining Growth Town in the Core Strategy (Variation NO. 4)

*“Saggart/Citywest can be defined as a self-sustaining growth town. The population taken in conjunction with the extent of economic activity, the quality of public transport provision, the designation of Citywest Shopping Centre as a Level 3 Retail Centre in the Retail Strategy for the Greater Dublin Area 2008-2016 and future growth potential, align strongly with the definition of a Self-Sustaining Growth Town in the RSES. It is considered appropriate to reflect this under the County Settlement Hierarchy by designating Saggart/Citywest as a Self-Sustaining Growth Town.”*

*“The self-sustaining growth town of Saggart/Citywest will develop based on the capacity of the public transport network and social infrastructure. While additional long term capacity exists in this area, the capacity of zoned lands is considered to be sufficient to meet demand during the period 2016-2022.”*

The Core Strategy of the *Development Plan* was updated in order to align with the provisions of the *Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy* (June 2019). Which stated that the new district at Fortunestown near the emerging town of Saggart / Citywest has a short term population capacity of 45,000 and a medium term capacity of 21,000 giving a total of capacity of 66,000 persons.

The Core Strategy includes Objectives CS3 Objective 1 and CS3 Objective 2 which seek to support and facilitate development on a phased basis subject to approved Local Area Plans, and to provide sufficient zoned land to accommodate services, facilities, retail and economic activity.

## **Fortunestown Local Area Plan 2012 (extended to 2022)**

The Fortunestown Local Area Plan came into operation on the 14th May 2012. On 12th June 2017, by resolution, the Local Area Plan was extended until 13th May 2022.

The LAP addresses a specific area of land in the vicinity of Fortunestown, City West and Boherboy and the boundary of the LAP is outlined in Figure 1.1 of the Plan.

The Plan outlines urban design principles for the overall plan area with the overall framework outlined in Figure 6.1.

The Plan then identifies specific areas within the Plan area.

The subject site is located within **Framework 5 - Saggart-Cooldown Commons Neighbourhood** which is addressed at Section 6.5 of the Plan and which outlines objectives for the development of the lands (SSNN1-7).

It provides that residential development across the Saggart-Cooldown Commons Neighbourhood will be laid out in a grid like format that incorporates perimeter blocks and a hierarchy of streets. It states that in order to facilitate the provision of own door housing, net residential densities of 30-50 dwellings per hectare shall apply to the plan lands. The Plan outlines an accessibility and movement strategy for the lands in Figure 6.22, green infrastructure in Figure 6.23, a built form framework in Figure 6.24 and a land-use and density framework in Figure 6.25. A neighbourhood framework plan is then combined in Figure 6.26.

Section 7 of the Plan outlines the standards and design criteria to be applied which are based on the 12 criteria included in the Urban Design Manual. Section 8 deals with Phasing for each of the framework areas and seeks to ensure infrastructure and amenities are delivered in conjunction with residential and commercial development.

Table 8.1 outlines 4 phases of development for each framework area. For the Saggart-Cooldown Commons area it is as follows: Phase 1 – 136, Phase 2 – 204, Phase 3 – 273 and Phase 4 – 573 giving a total of 1,186 units. Key outcomes for each phase are contained in Tables 8.2-8.5.

**Section 5.4.1** refers to residential density.

**Section 5.5.4** Building Heights.

**Section 5.6.4** refers to dwelling mix.

Objectives of note include:

**Objective LUD7** refers to the location of apartments/duplexes.

The requirement that no more than 10% of dwellings in any residential scheme are of the one bedroom type (**Objective LUD8**).

Requirement to ensure that a minimum of 85% of all dwellings be provided as own door houses on their own site and that a maximum of 15% of the dwellings across the Plan lands be provided as apartments/duplexes with such dwelling limited to appropriate areas (**Objective LUD10**).

The minimum floor area of all developments throughout the Plan lands shall be 110sq. metres (**Objective FC6b**).

#### **6.4 Material Contravention Statement**

6.4.1 The applicants have submitted a Material Contravention Statement in accordance with Section of 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

The Statement provides a justification for the material contravention of the *South Dublin County Council Development Plan 2016 – 2022* (hereinafter *Development Plan*) in relation to height parameters as a result of the following objective:

*“H9 Objective 4:*

*To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use Zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme”.*

The relevant approved Local Area Plan is the *Fortunestown Local Area Plan 2012* (extended 2017), which will expire on 13th May 2022.

The proposed residential scheme, which is the subject of this planning application, proposes densities of 190 units per hectare with heights ranging from four to eight storeys. This exceeds the parameters set out by the Fortunestown Local Area Plan (hereinafter Fortunestown LAP), which identifies the subject site as suitable for

densities between 30 and 50 units per hectare and heights of a maximum of three storeys with exceptions only in limited circumstances.

There are a number of additional deviations from Local Area Plan policies addressed in the statement. These include Objective LUD8 and LUD10 unit mix and Objective FC6b (unit size).

#### Height:

South Dublin County Development Plan 2016-2022. H9 Objective 4:

“To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use Zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme.”

In this instance the ‘relevant approved Local Area Plan’ is the Fortunestown Local Area Plan 2012 (extended to 2022).

#### Density:

It is submitted that National policy provides justification for the proposed increased density and building heights within the subject scheme due to the strong encouragement of higher densities on appropriately zoned and serviced lands adjacent to town centres, employment hubs and high quality transport.

It is acknowledged that the Fortunestown Local Area Plan provides a density limit of 50 units per hectare per site with a three storey height restriction. The proposed development provides a density of 190 units per hectares with heights of four to eight storeys which exceeds the Local Area Plan limitations.

ABP granted permission on the adjoining lands (ABP Ref. PL06S.305563) which provides for a maximum height of 9 storeys and thus establishes a precedent in this area in terms of height.

In addition, there are a number of other policies and objectives set out in the Fortunestown Local Area Plan which the proposed development is not strictly in accordance with and generally relate to building mix, type and minimum floor areas as follows:

#### Unit Mix:

- The Local Area Plan requires that no more than 10% of dwellings in any residential scheme are of the one bedroom type (**Objective LUD8**). The proposed development provides 36.6% one bed apartments. (Applicant comment: SPPR1 of the Apartment Guidelines sets out that apartment development may include up to 50% one bed or studio type units).
- Ensure that a minimum of 85% of all dwellings be provided as own door houses on their own site and that a maximum of 15% of the dwellings across the Plan lands be provided as apartments/duplexes with such dwelling limited to appropriate areas (**Objective LUD10**). The proposed development does not provide own door units and comprises 100% apartments. (Applicant comment: National Policy recognises the need to increase housing output and particularly apartment type developments).

#### Unit Size

- The minimum floor area of all developments throughout the Plan Lands shall be 110sq. metres (**Objective FC6b**). The proposed development provides a minimum average floor area of 68.5sq.m. (Applicant comment: Development is compliant with the minimum floor areas set out in SSPR 3 of the Apartment Guidelines).

The applicant notes that it is evident that the proposed development materially contravenes the Fortunestown Local Area Plan, however it is considered that sufficient justification for this is available with regard to recent National Policy and Objectives.

#### **6.4.6 Justification for Material Contravention:**

##### **(i) Conflicting Development Plan Policies:**

The applicant has set out that the South Dublin Development Plan provides a number of policies and objectives which seek to provide for higher residential densities and ensure the efficient use of zoned lands, it is submitted that these policies are contrary to the height limitations imposed by H9 Objective 4 of the Development Plan and Section 5.5.4 of the Fortunestown LAP. These include:

##### **Policy 8 Residential Densities:**

##### **“H8 Objective 1:**

To ensure that the density of residential development makes efficient use of zoned lands and maximises the values of existing and planned infrastructure and services, including public transport, physical and social infrastructure, in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

**H8 Objective 2:**

To consider residential densities at appropriate locations that are close to Town, District and Local Centres and high capacity public transport corridors in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).”

It is submitted that the above policies seek to increase densities within appropriate locations, and this cannot be fully achieved where there are co-existing limitations on height within the Development Plan as per H9 Objective 4 and the limit of three storeys (except for identified exceptional circumstances) as per the Fortunestown Local Area Plan.

**(ii) National Planning Policy:**

It is contended that a number recently published national planning policy documents and Section 28 Guidelines seek to increase densities on zoned service lands adjacent to high quality public transport corridors. These include:

- Sustainable Urban Housing: Design Standards or New Apartments, Guidelines for Planning Authorities (2018).
- Project Ireland: National Planning Framework 2040 (2018).
- Urban Development and Building Heights, Guidelines for Planning Authorities (2018).

*Sustainable Urban Housing: Design Standards or New Apartments, Guidelines for Planning Authorities (2018).*

- Compliance with central/accessible area criteria.

The applicant argues that in consideration of the appropriateness of the site to accommodate higher density development, it is clear that the height limitations provided by the Development Plan and the Local Area Plan is in direct conflict with the



provisions set out in the Apartment Guidelines.

*Project Ireland: National Planning Framework 2040 (2018).*

- Compliance with NPO13 and NPO35

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

- These state that it is appropriate to support height of at least six storeys at street level with scope for greater height subject to design parameters. This is contrary to the three storey height limitation provided by the Fortunestown LAP.
- The Guidelines include criteria against which proposal for taller buildings can be assessed for suitability. The proposed development aligns with the identified criteria which include proximity to good public transport, positive contribution to placemaking and legibility and maximising access to daylight
- The applicant is of the view that it is important to apply the provision of the Height Guidelines to the proposed development as they clearly reflect the intention of National policy to move towards higher density developments in the interest of sustainable development.

**Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (2019).** In particular RPO 5.4.

#### **6.4.7 Conclusion:**

The applicant concluded that proposed development, 224 apartments, presents an important opportunity to provide for residential development at this prime location adjoining the terminus of the LUAS line in an area that is experiencing significant change currently through the development of adjoining lands.

The proposal which provides heights of 4 to 8 storeys and a density of 190uph is in line with National policy. National Policy has set out the need for increased residential densities in appropriate locations. The applicant argues that the current limitation of building height as included in the Fortunestown Local Area Plan acts as a barrier against this, as a higher density development cannot be achieved without the provision of taller buildings.

It is also contended that the Development Plan policy which restricts height is in direct conflict with the NPF and the objectives set out within.

It is considered that the subject site meets many, if not all, criteria set out by National Policy in terms of suitability for a high density development incorporation taller buildings, it is submitted that there is ample justification for An Bord Pleanála to permit a material contravention of the Development Plan and Local Area Plan in terms of allowable heights having regard to Section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended).

## **7.0 Designated Sites**

The application site is not within or adjacent to any designated Natura sites or NHAs.

## **8.0 Observer Submissions**

**8.1.** Two submissions were received from third parties and 6 from Prescribed Bodies, which are summarised in section 9 of this report. Given the number of submissions received I proposed to summarise each submission hereunder.

### **8.2. Submission from Clapton (Ireland) Limited**

Clapton (Ireland) Limited through their legal representatives have submitted a submission which is summarised as follows:

They are stated that they are the legal owners of the lands which are the subject of a Strategic Housing Development Application lodged by Cape Wrath Hotel ULC under Ref. 308088, dating back to 18 May 1998. That the lands were formally conveyed to them from Winterblue Limited in 1998. A copy of the Deed of Conveyance dated 18 May 1998 is enclosed as evidence of their title.

Clapton (Ireland) Limited have previously been party to a number of unsuccessful Planning Applications on the lands and whilst they are supportive of the current application, this is without prejudice to their rights as the legal owners of the said lands.

### **8.3. Submission from Raymond Charters**

The main issues raised are summarised as followings

- Reason for selecting this area to live was its green landscape. It is also important to have the availability of a natural greenbelt and mature horticulture in sight from his home.
- Planning history of refusal for 136 golf apartments at this location.
- No reference in any of the documentation submitted to social housing, student accommodation, Air BnB, Buy to Own, Sustainability, Traffic Congestion, Public Transport, E-Scooters, Bicycles (ie Dublin Bikes, Bleeper) and queries what consideration to these have been considered in advance of and/or post to the submitting of the planning application.
- It is an objective of the Fortunestown Local Area Plan to have connected green infrastructure with adjacent developments. However, there is no reference in the documentation to any of the mature trees in Citywest Convention Centre (ex. Oak Tree), Tassagard House (ex. Populus Tree) and Westpark (ex. Willow Tree).
- Request a full review of all existing trees within the surrounding area(s) and included in the redevelopment of Lána Gairtér. Detail of the maintenance and upkeep of all existing horticulture should also be included.

## **9.0 Planning Authority Submission**

9.1 The Chief Executive's report, in accordance with the requirements of section 8(5)(a) of the Act of 2016, was received by An Bord Pleanála on the 2<sup>nd</sup> November 2020. The report states the nature of the proposed development, the site location and description, submissions received and details the relevant Development Plan/Planning Scheme policies and objectives. The report also included summary of the views of the elected members of the Tallaght Area Committee Meeting held on the 28<sup>th</sup> September 2020.

## **9.2 Summary of the views of the Elected Representatives raised at the Tallaght Area Committee Meeting held on the 28<sup>th</sup> September 2020.**

- Density too high
- Design is out of character with the area.
- Cumulative impact on the area in conjunction with the Cosgrave site.
- Traffic
- Impact on Schools.
- Cumulative impact of Primary Health Care and proposal.
- Impact on Trees.
- SHD process is undemocratic
- Negative impact on library (protected structure)
- Adverse impact on environment and wildlife.
- Inadequate mix of units.
- Buses do not have capacity.
- How much is BTR
- No transport capacity.
- Bats are protected species.
- Design lacks variety.
- High proportion of 2 beds.
- Mismatch between crèche and level of 3 beds
- Why are 372 carparking spaces required if public transport is so good.
- Contentious site.
- Who takes charge of the public park.
- Large number of cycling bays is good.
- There are 152 car parking spaces.
- Overdevelopment.
- No infrastructure.
- No transport.

### 9.3 Summary of Planning Analysis contained in the Chief Executive's Report

The following is a summary of key planning considerations raised in the assessment section of the planning authority report:

#### Land Ownership:

A third party claims to be the legal owner of the lands and has provided information in this regard. Issues pertaining to the rightful ownership of land are not in and of themselves a relevant planning consideration. The provisions of Section 34 (13) of the Planning and Development Act 2000 (as amended) outlines that a person shall not be entitled solely by reason of a permission to carry out any development.

#### Zoning and Council Policy:

The Planning Authority welcomes the provision of residential development at close proximity to the Saggart Luas Stop. It is considered that the provision of residential development complies with the 'RES-N' land-use zoning objective.

#### Material Contravention of the Local Area Plan.

The Planning Authority has outlined that it has approached the assessment of this development with the expectation that An Bord Pleanála continues to interpret that the Fortunestown Local Area Plan (LAP) does not comply with provisions of Ministerial guidelines under s.28 of the Planning and Development Act, 2000, as amended. The material contraventions of the LAP pertain to the following:

- Residential Density
- Building Height
- Unit Mix (Apartments)
- Unit Mix (1-bedroom units)
- Average Floor Area per Unit

#### Local Area Plan

The subject lands are located within the development boundary of the Fortunestown Local Area Plan 2012, in the 'Saggart – Cooldown Commons Neighbourhood'. Table 6.1 outlines the function of this neighbourhood area.

The specific local objectives which apply to 'Saggart-Cooldown Commons' neighbourhood are laid down in section 6.5 of the LAP.

The listed local objectives for the neighbourhood area do not place a particular requirement on this site, and many of the communal facilities specified in the LAP have been provided in this neighbourhood already. Notwithstanding, there is a pro rata requirement for community facilities,

Phasing, Services and Amenities:

Phasing requirements in this neighbourhood have been broadly met.

Residential Density:

The proposed gross density of 190 dwellings per hectare, is a material contravention of the South Dublin County Development Plan 2016 - 2022 and the Local Area Plan.

The justification for higher density, made by the applicant in their Material Contravention Statement, is based on the density guidance contained in the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2018). Under this guidance, the site can be described as a 'central and/or accessible location' suitable for development of 100+ dwellings per hectare, due to its close proximity to the Luas.

At Stage 2, South Dublin County Council advised that the density was excessive when compared to other developments in Fortunestown. At this stage it was also advised that the lands would not be adequately serviced under the provisions of the Local Area Plan, and would not be adequately serviced as required under the 'Urban Development and Building Heights – Guidelines for Planning Authorities' (2019), and that the development is out of character and excessively dense when compared with the permitted pattern of development in the area, even without consideration of LAP standards.

The Planning Authority remains concerned that the development would not be sustainable in the form proposed.

Height, Gateway Treatment and the Casement Aerodrome:

Height:

The development is arranged in 4 blocks. Block 8 is 6-8 storeys, located to the south of the site. Blocks B and C are 6 storeys in height each. Block D, at the north-east of the site, is 4-5 storeys in height.

The Sunlight/Daylight Analysis provided by the applicant shows the impact of Block D on development to the north and east to be 'imperceptible' in terms of impact on vertical sky component. The findings of the report are accepted.

#### Gateway Treatment:

The Planning Authority while still holding reservations about the design, treatment of the landmark building to the south west, given its prominent location, does not consider this issue to be a reason for refusal, or one that needs to be clarified by condition.

#### Casement Aerodrome:

The Planning Authority noted that the potential negative impact of the proposed overall height on the operation of the Aerodrome is a new issue that has emerged in this SHD process. Noting the submission of the Department of Defence, South Dublin County Council recommended that Block A be reduced in height to be below the Inner Horizontal Surface and that no part of the development breach the inner horizontal surface of the aerodrome. This could be dealt with by condition.

#### Urban Design and Layout:

A Design Statement is submitted with full commentary on the development in relation to 12 criteria under the Urban Design Manual.

The applicant has proposed to frame the basement car parking ramps with pergola/canopy structures of steel and wood. This addition to the design of the area is noted.

The design and layout of the development would be in keeping with the proper planning and sustainable development of the area.

#### Sunlight and Daylight Analysis:

The Sunlight/Daylight Assessment includes analysis of the proposed units and impact on existing units for vertical sky component and average daylight factor. The report also shows analysis of the sunlight penetration to the open spaces in the

development. The report concludes that the development is generally well lit and would not have an unacceptable detrimental impact on adjoining developments.

The Planning Authority supports the overall conclusions of the report. In terms of sunlight and daylight exposure, the development would accord with principles of proper planning and sustainable development.

Residential Amenity:

The development appears to comply with the minimum requirements under section 3.8 of the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2018).

Dual Aspect:

The majority of the units in this development would be dual aspect. This is acceptable to the Planning Authority and accords with the Apartment Guidelines

Public Realm:

Ample communal amenity spaces are provided within the development, within a hierarchy of spaces.

The public open space is mostly provided in peripheral strips and appears to include the cycle path to the west of the site. The Planning Authority remains concerned that this does not fulfil a reasonable definition of the term 'public open space'. It is acknowledged that the primary users of the space will be the residents and it is not envisaged that the open space at this location will attract non-residents. As such, the design approach is generally acceptable.

Reference to Objective GI8 of the LAP which states that a linked open space hierarchy shall be implemented fully across the Plan Lands and all proposed developments shall contribute to the achievement of this integrated Green Infrastructure Network where relevant and at a minimum rate of 14% of A1 zoned lands. All biodiversity strips may be calculated as contributing to the required minimum 14% public open spaces provision.



## Access, Transport and Parking

The Roads Department has stated its satisfaction with proposals relating to the access on Garter's Lane, layout of the site, car parking and bicycle parking provision, pedestrian and cyclist access to and through the site, and proposals for taking in charge.

Notwithstanding the recommendation of the Roads Department, the Planning Department raised concerns relating to level car parking provision. Concern were also noted in relation to cycle access through the site (provision of an extensive ramp to the north of the site), which is dealt with under the 'Public Realm' heading.

### Car Parking Provision

It is noted that the basis for justification of higher density at this site is the density guidance in the 2018 Apartment Guidelines for central and/or accessible urban locations.

The Planning Authority is of the view that the car parking provision at this location should be further reduced to a ratio of 0.6 spaces per unit, in order to ensure that the provision of very high density residential at this location does not encourage unsustainable transport behaviours, contrary to the aims of national policy on height and residential densities.

### Public Transport

South Dublin County Council has received advice from Údarás Náisiúnta Iompair, the National Transport Authority (NTA), expressing their opinion that the Luas is not at maximum capacity and that any capacity issues can be relieved by NTA actions to increase capacity on the line. The NTA further references BusConnects and the next review of the Transport Strategy for Greater Dublin, as projects through which transport capacity in Fortunestown can be expanded to meet increased demand for services.

### Cycling Provision

The proposed development would be provided with a cycle path along its western boundary, separated from Garter's Lane by new native hedging, and aligning with similar provision on lands to the north, permitted under ABP-300555-19.

The Roads Department have recommended conditions to be attached to any grant of permission.

### Water Service and Drainage:

Irish Water has stated that the development is acceptable in principle. They have recommended that a standard condition relation to connection agreements is imposed.

The Environmental Services Department has noted with concern that some of the information provided with the application does not match their requirements in relation attenuation calculations, design details (including sections), and permissible outflows. These can be addressed by condition.

### Archaeological Heritage:

The applicant has provided an Archaeological Assessment. The site is partially located within the Zone of Archaeological Potential around Saggart village, the location of a medieval settlement. The report, prepared by IAC Ltd., concludes that the proposed development is unlikely to have any impact on the archaeological potential of the site, due to the site having been subjected to high levels of disturbance in the past. This conclusion is accepted.

### Architectural Heritage:

The site is located in close proximity to Saggart House and a range of buildings on Garter's Lane. These are all to the west of Garter's Lane and not actually adjacent to the site. The Planning Authority concurs with the conclusion of the Architectural Heritage Assessment provided by the applicant, that the development would have a low impact on the character of these structures, given their current setting behind a high walled enclosure.

#### Part V:

The applicant proposes that 23 units will be provided for the Planning Authority on completion. The units are proposed in Block D, on ground, first and second floor levels. It is the preference of SDCC to purchase units subject to a final agreement following a grant of planning permission.

#### Public Lighting:

Details to be agreed and condition recommended to be attached to that effect.

#### Taking in Charge:

The applicant has not provided a proposal for taking in charge. This matter can be addressed by condition.

#### Environmental Health

The HSE Environmental Health Officer has recommended standard conditions in their submission, relating to construction noise and air quality which are considered acceptable.

#### Bin Storage:

Acceptable.

#### Screening for EIA:

The applicant's planning consultant has provided an EIA Screening Report. The responsibility for screening the application lies with An Bord Pleanála. It is noted, however, that the applicant's screening report concludes that the application does not meet any thresholds requiring an EIA, and is not likely to have significant impacts.

#### Screening for AA:

An AA Screening Report was submitted with the application and has concluded that a Stage 2 Appropriate Assessment is not required. The Board has responsibility for screening for appropriate assessment.

#### **9.4 Interdepartmental reports submitted with the Chief Executive Report**

**Roads Department Report** (19 October 2020). No objection subject to conditions.

**Environmental Services Report** (7 October 2020) Issues raised relating to attenuation calculations, design details (including sections), and permissible outflows. These can be addressed by condition.

**Delivery Planning Report** (Forward Planning) (6 October 2020. Relates to requirement for a large community centre at Fortunestown and a Section 48 contribution towards its delivery.

**Housing Section Report** (2 October 2020). Requirement for Part V condition

#### **9.5 Chief Executive Report Conclusion**

The Planning Authority considers that the Fortunestown Local Area Plan provides a framework to achieve sustainable growth in accordance with the designated 'Self Sustaining Growth Town' designation in the South Dublin County Council Development Plan 2016-2022.

It is the opinion of the Planning Authority that the proposed development would be a material contravention of the Fortunestown Local Area Plan on the grounds of building height, density and unit mix (1-beds and apartments). In the context of the material contraventions, the Planning Authority acknowledges the previous decisions and precedents set by An Bord Pleanála in relation to similar developments in Fortunestown, the content of S.28 Ministerial Guidelines, the updated policy context since the adoption of the LAP and the pattern of permitted development in the area and the comments of the Board at Stage 2.

The Planning Authority concluded that that given the scale and nature of the proposed development, the issues raised at Stage 2 of the SHD process, and the information provided by the applicant at Stage 3, it is considered that the proposed development would be broadly consistent with the permitted pattern of development in the area, broadly accords with the LAP framework (apart from the material contraventions outlined) and would therefore generally accord with the proper planning and sustainable development of the area, subject to conditions and modifications attached.

**Recommendation:**

**Grant** permission subject to conditions/reasons contained in Appendix 1.

**Appendix 1:**

Contains 31 recommended conditions. They are mostly standard conditions with the others of note including:

Condition No. 2 relating to 'modification/air traffic operations' which sets out the requirement to reduce the height of Block A by 2 floors and reduce the car parking to 108 no. spaces to be reduced pro rata from the reduction in units and to achieve a ratio of 0.6 spaces per unit.

Condition No. 3 (Roads), this includes inter alia a) the provision of a right turning lane on Garters Lane into the development at the main access point.

Condition No. 5 refers to the requirements set out the Environmental Section that remain to be addressed.

Condition No. 10 and 11 refer to archaeological monitoring.

Condition No. 15 refers to nature Conservation (DAU recommended conditions).

Condition No. 19 refers to Luas Operation and Safety.

Condition No. 24 refers to Japanese knotweed and Giant Knotweed.

Condition No. 29 refers to a Bond for Public Realm debris avoidance and redress. €500 per unit or other acceptable security.

Condition No. 30 refers to section 48 Development Contributions.

Condition No. 31 refers to Bond for the satisfactory completion of the development.

## **10.0 Prescribed Bodies**

10.1 The list of prescribed bodies, which the applicant is required to notify prior to making the SHD application to ABP, issued with the section 6(7) Opinion and included the following:

1. Irish Water.
2. Irish Aviation Authority.
3. Airport Operator (Department of Defence).
4. Transport Infrastructure Ireland.
5. National Transport Authority.
6. Coras Iompair Eireann,
7. Transdev.
8. Minister for Culture, Heritage and The Gaeltacht.
9. The Heritage Council.
10. An Taisce.
11. South Dublin Childcare Committee

The applicant notified the relevant prescribed bodies listed in the Board's section 6(7) opinion. The letters (copies submitted with the application) were dated 4<sup>th</sup> September 2020. A summary of those prescribed bodies that made a submission are included as follows:

### **10.2 Transport Infrastructure Ireland (24 September 2020)**

A list of recommended conditions is attached to the report dealing with 1) vibration and settlement monitoring regime for LUAS track infrastructure, 2) loss of LUAS revenue arising from suspension of services arising from or a consequence of the design or construction of the development, 3) protection of the OCS danger zones from intrusion and 4) compliance with the TII "Code of engineering practice for works on, near or adjacent to the Luas light rail system"

### **10.3 Irish Aviation Authority (14<sup>th</sup> September 2020)**

The applicant is directed to directly engage with the Property Management branch of the Department of Defence to assess the impact of the proposed development on Casement Aerodrome's obstacle limitation surfaces, flight procedures and communication, navigation and surveillance equipment. This should also incorporate the proposed utilisation of any cranes that would be necessitated during construction. If permission is granted the applicant should engage with Casement Aerodrome regarding crane operations.

### **10.4 Department of Defence (8 October 2020 which was subsequently withdrawn and Observation lodged dated 7<sup>th</sup> December 2020)**

Following consultations with the Air Corps at Casement Aerodrome, The Department of Defence made the following observations:

1. Given the proximity to Casement Aerodrome, operation of cranes should be coordinated with Air Corps Air Traffic Services, no later than 28 days before use.
2. Given the proximity to Casement Aerodrome this area may be subject to a high level of noise from aircraft operating in the vicinity of the aerodrome.

### **10.5 Minister for Culture, Heritage and the Gaeltacht (7<sup>th</sup> October 2020)**

Comments received from the Development Applications Units relate to nature conservation:

The 1.18ha site is almost entirely covered in hard core and since 2005 scrub has colonised much of this area. The boundaries of the site, apart from three poor quality pedunculate oaks on the western Garter's Lane boundary, are entirely planted up with exotic ornamental species in recent decades. The removal of these hedges and trees will have minimal impacts in terms of biodiversity. However, they are expected to harbour the nests of breeding birds in season.

The removal of existing Cherry laurel hedge along Garter's Lane is welcomed. The planting of a hedgerow of mixed native tree and shrub species is proposed along with c.88, mainly deciduous, trees which will also eventually provide substitute nesting for some of the bird species displaced by the clearance of vegetation.

Two conditions are recommended to be attached in the event of a grant of permission. These relate to a) clearance of vegetation outside the main bird breeding season and b) landscape to include a hedgerow of native species and planting of trees in the areas of public open space.

#### **10.6 Irish Water (23<sup>rd</sup> September 2020)**

Water: New connection to the existing network is feasible without upgrades.

Wastewater: New connection to the existing network is feasible without upgrades.

Irish Water has issued the applicant a Statement of Design Acceptance for the development proposal. The applicant is required to sign a connection agreement with Irish Water prior to any works commencing and connecting to the IW network. All development is to be carried out in compliance with Irish Water Standards Codes and Practices. Where any proposal by the applicant to build over or divert existing water or wastewater services the applicant is required to submit details to Irish Water for assessment of feasibility and have written confirmation of feasibility of diversion(s) from Irish Water prior to any commencement of works.

#### **10.7 A submission was also received from Inland Fisheries Ireland (8<sup>th</sup> October 2020)**

The main points are summarised below:

- Comprehensive surface water management measures must be implemented at the construction and operational stage to prevent any pollution of local surface waters.
- Drainage from the basement car parks must discharge to the foul sewer after treatment via a petrol/oil interceptor.



- All construction should be in line with a detailed site specific CEMP.
- It is noted that it is essential that local infrastructure capacity is available to cope with increased foul and storm water generated by the proposed development in order to protect the ecological integrity of any receiving aquatic environment. Wastewater from the development will discharge to Ringsend WWTP. It is consistently reported that Ringsend WWTP is currently overloaded experiencing average daily loads of 1.8 -1.9M PE. While additional capacity is under construction any additional loading to the current plant is premature until the upgrade is commissioned.

## 11.0 Assessment

The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on the relevant section 28 guidelines. I examine the proposed development in the context of the statutory Development Plan and the Local Area Plan. In addition, the assessment considers and addresses issues raised by the Planning Authority in the Chief Executive's report, Prescribed Bodies and third party observations on file, under relevant headings. The assessment is therefore arranged as follows:

- Principle of Development
- Residential Density
- Housing Mix
- Design and Layout
- Height
- Unit Size
- Residential Amenity
- Traffic and Transportation
- Infrastructure
- Part V
- Legal Interest in Land

- Other Matters
- Material Contravention
- Chief Executive Report

## **11.1 Principle of Development**

### **11.1.1 Zoning**

The site is subject to zoning objective RES-N in the South Dublin County Development Plan (CDP) 2016-2022 with an objective *To provide for new residential communities in accordance with approved area plans*, The site is located in area identified as a local centre in the in the Fortunestown Local Area Plan.

Having regard to the zoning objective pertaining to the site I am satisfied that the principle of residential development on the subject lands is acceptable.

### **11.1.2 Phasing**

Section 8 of the Local Area Plan sets out a detailed phasing strategy concerning the delivery of key infrastructure in tandem with planning permission for residential units. Movement from one phase to the next is contingent on the delivery of such infrastructure, however, there is flexibility to allow development sites to progress. In this case the Planning Authority have set out in detail each phase and identify recent changes that have occurred to allow for flexibility. The delivery of key community and social infrastructure has or is being achieved in the Local Area Plan lands in accordance with the phasing strategy contained therein.

The Planning Authority noted that the phasing requirements in this neighbourhood have been broadly met and no special contribution will be sought in relation to this development and a standard section 48 contribution should apply.

## **11.2 Residential Density**

The proposed development is for 224 apartments on a site with a stated area of 1.18ha. This results in a proposed density of 190 units per hectare.

The subject site is subject to the provisions of the Fortunestown Local Area Plan (2012) which has been extended to May 2022. The site is within Framework 5 - Saggart-Cooldown Commons Neighbourhood which is addressed at Section 6.5 of the Plan and which outlines objectives for the development of the lands (SSNN1-7). This states that in order to facilitate the provision of own door housing, net residential densities of 30-50 dwellings per hectare shall apply to the Plan lands

The Planning Authority have raised concerns at the residential density proposed which is in excess of that envisaged by the Local Area Plan. The justification for higher density, made by the applicants in their Material Contravention Statement, is based on the density guidance contained in the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2018). Under this guidance, the site can be described as a 'central and/or accessible location' suitable for development of 100+ dwellings per hectare, due to its close proximity to the Luas.

Saggart is designated a Self Sustaining Growth Town in the South Dublin Core Strategy in Variation No. 4 under which The Core Strategy of the *Development Plan* was updated in order to align with the provisions of the *Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy* (June 2019). The RSES states that the new district at Fortunestown near the emerging town of Saggart / Citywest has a short term population capacity of 45,000 and a medium term capacity of 21,000 giving a total of capacity of 66,000 persons.

The RSES identifies Saggart as located within the Dublin Metropolitan Area. The MASP seeks to focus development on large scale strategic sites and on the redevelopment of underutilised lands, based on key transport corridors that will deliver significant development in an integrated and sustainable manner. Saggart is located along a 'strategic development corridor.' In this regard I note that the site is an underutilised serviced site located adjoining the Luas red line and Saggart Luas Stop. The site has good access to public transport (Luas and bus), therefore it is appropriate that higher densities would be considered.

I consider the proposed density appropriate for this accessible location and in compliance with relevant Section 28 Ministerial Guidelines. The site is at a location suitable for higher densities in accordance with the 'Guidelines on Sustainable Residential Development in Urban Areas' which sets out that in order to achieve the quantum of development required to make such transport corridors viable, the guidelines seek higher densities with a minimum of 50 units per ha but with a provision that minimum densities can be specified in Local Area Plans.

Taking into consideration the permitted scheme to the east where 134 units per hectare was deemed acceptable under ABP Ref. 305563-19 and the context of the site, a higher density can be accommodated, and a material contravention justified in this instance. The site has significant locational advantages. The availability of a high-quality light rail station adjacent to the site cannot be underestimated but is not the sole reason for higher densities. The site will provide a new public open space and improved public realm. It is located close to primary schools and within walking distance of the district centre at Citywest Shopping Centre and employment at the Citywest Business Campus. It is in this context and in accordance with relevant Section 28 Guidelines that higher densities can be sustained at this location in my opinion.

### **11.3 Unit Mix**

Mr Charter in his submission queried if the unit mix and typology have been fully considered prior to an application being lodged and subsequently. The application before the Board is for 224 apartments, the unit mix consists of 1, 2 and 3 bed apartments which have not been advertised as built to rent and therefore are considered apartments in the traditional sense. The proposed development has been the subject of section 247 consultation with the Planning Authority and Section 5 Pre-Application consultation with An Bord Pleanála. The purpose of this report is to assess the development as lodged under ABP 308088-20.

The Planning Authority have submitted reports from the Planning Section and Housing Section, and are satisfied that their housing requirements are met and that the housing mix is acceptable, however note that the proposed mix materially contravenes the Fortunestown Local Area Plan which sets out that no more than 10% of dwellings in any residential scheme are of the one bedroom type (Objective LUD8). The proposed development provides 36.6% one bed apartments.

The applicants have outlined in the Material Contravention Statement that the proposal complies with SPPR1 of the Apartment Guidelines which sets out that apartment development may include up to 50% one bed or studio type units

The proposed development also materially contravenes Objective LUD10 of the Local Area Plan which sets out to ensure that a minimum of 85% of all dwellings be provided as own door houses on their own site and that a maximum of 15% of the dwellings across the Plan lands be provided as apartments/duplexes with such dwellings limited to appropriate areas. The proposed development does not provide own door units and comprises 100% apartments.

SPPR 1 of the 2018 Apartment Guidelines states that developments may include up to 50% 1 bed or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with 3 or more bedrooms. The proposed unit mix is 82 x 1bed units (36.6%), 121 x 2 bed (54%), 21 x 3 bed (21%) proposed. I am satisfied that the proposed mix complies with the requirements of SPPR1. This would lead an acceptable population mix within the scheme, catering for persons at various stages of the lifecycle, in accordance with the Urban Design Manual. Furthermore, it would add a variety of housing type to an area predominantly characterised by traditional urban houses. I consider that the proposed housing mix is acceptable and is in accordance with SPPR 4 of the Urban Development and Building Heights Guidelines for Planning Authorities.

## **11.4 Design Strategy**

### **11.4.1 Design**

The proposal is for 224 no. apartments which are provided in 4 no. blocks ranging in height from 4 to 8 storeys.

A detailed Architectural Design Statement is submitted with the application which sets out clearly the overall architectural rationale and approach. The applicant also provides a detailed statement regarding compliance with the 12 criteria set out in the Urban Design Manual.

A detailed Material & Finishes Report is submitted with the application which is read in conjunction with the Architectural Design Statement, Landscape Design Statement and Building Lifecycle Report and sets out external building materials and landscape external materials. The principal external finished materials to buildings include brick, metal cladding facades, green roof finishes, selected uPVC fenestration, recessed/semi-recessed/projecting metal structure balcony detail with glazed balustrades. In terms of landscape materials, soft landscaping uses a planting palette that reflects the adjacent uses and the biodiversity proposed for the site. The majority of the design is part of a blue roof system which provides ample planting depth of trees and shrubs. The material palette for hard landscaping is simple and designed to reflect their uses and include 3 paving schemes, each with patterns and colours to distinguish the area.

In my view, the use of high-quality materials and finishes and contemporary design offers an opportunity for an aesthetically pleasing development at this location. While I recognise that the proposal would have a visual impact when viewed from the surrounding area it is reflective of the evolving built environment along Garter's Lane and Fortunestown Lane in particular.

The Apartment Guidelines require the preparation of a Building Lifecycle Report regarding the long-term management and maintenance of apartments. Such a report has been supplied with the planning application. In addition, the guidelines remind developers of their obligations under the Multi-Unit Developments Act 2011, with reference to the ongoing costs that concern maintenance and management of apartments. A condition requiring the constitution of an owners' management company should be attached to any grant of permission.

I consider the proposal before the Board is the optimum design solution for this site, that it would not adversely impact on the character of the receiving environment.

#### **11.4.2 Layout**

The Local Area Plan sets out a neighbourhood framework layout for the area, figure 6.26 of the Local Area Plan refers. The framework plan sets out the need for a local centre based around a neighbourhood park and local square, primary street built frontages are delineated and indicative urban blocks are outlined.

For the most part the proposed development follows this advice, and the Planning Authority acknowledge that the layout of the blocks, open space and connections are appropriate. The proposed urban design approach adopted by the applicant ties in with existing and emerging development in the area. I note that two SHD application bound the site, one for 526 dwellings to the north (ABP-300555-17) and one for 488 apartments to the east (ABP-304463-19) and that these has informed the basis for the current proposal.

Six character areas are proposed, Area 1: linked street, Area 2: Garter's Lane, Area 3: South Courtyard A/B, Area 4: North Courtyard C/D, Area 5: Eastern Street with external canopy/pergola and Area 6: Fortunestown Lane. There is little to distinguish the character areas in terms of design, materials and elevational treatment of the houses and apartment blocks proposed. The main distinction relates to the relationship and interface of each character area with the public realm.

The proposed development reflects the evolving built environment that is emerging in the immediate area, developments permitted or under construction to the north and east of the site. The design and layout of the proposed development has regard to the adjoining developments and has been designed in such a manner that it integrates with same. There is good connectivity and permeability within the development and between the development and adjoining lands and the wider area which is provided in the form of vehicular, cycle and pedestrian links. From a layout perspective, I am satisfied that the proposed development seamlessly fits in with

both the emerging character of the area to the north and east and the existing road and Luas alignment to the south.

I consider, if the Board is of a mind to grant permission that links to adjoining lands should be shown up to the site boundaries to facilitate their future provision subject to the appropriate consents, where required. Provision of these links will greatly improve accessibility and linkages in the area, increase their usage and by association security through active usage.

### **11.4.3 Open Space**

Public Open Space provision (c. 2720 sq.m) is provided in a linear area to the west that includes retained hedgerow, cycle and pedestrian connection. Objective GI8 of the Fortunestown Local Area Plan sets out that a linked open space hierarchy be provided across the plan lands. I note the concerns raised by Mr Charter in his submission, I have examined objective GI8 and I am satisfied that the proposal accords with the requirements of the Local Area Plan. I consider the public open space provision and public realm acceptable give the availability of public amenities in the surrounding area.

The 2018 Apartment Guidelines set out the minimum areas for communal open space as 4sq.m for studios, 5 sq.m for 1 bed units, 6 sq.m for 2 bed (3P) and 7sq.m for 2 bed (4P). A total of 2950.sq.m is proposed in communal courtyards throughout the scheme. The quantum of communal open space is therefore in accordance with the Guidelines requirements. 4 no. Children's play areas (c. 890sq.m) are provided throughout the scheme in both communal and public open space areas.

The apartments are provided with either terrace or balcony spaces, all to an acceptable standard. Apartment units are uniformly distributed throughout the site and are provided with adequately sized public or semi-private open space and play areas which comply with the standards set out in the appendix to the Guidelines. A high standard of landscape is proposed throughout the scheme which provides future occupiers with good quality amenities.

## **11.5 Height**



Four apartment blocks are proposed which range in height from 4 (13m) to 8 storeys (24m). The arrangement of the blocks has placed Block A which is predominantly 6 storeys in height with a 2 storey penthouse element at the corner of Garters Lane and Fortunestown Lane to create a focal point. Block B and C are 6 storeys in height and address the internal road which links to the permitted development to the east. Block D located on the northern portion of the site is 4 storeys with a 5<sup>th</sup> storey (penthouse) setback.

The Planning Authority noted that the proposed height materially contravenes the Fortunestown Local Plan. However, they have no objection in principle to the proposed height, having regard to the Urban Development and Building Height Guidelines for Planning Authorities December 2018, the location and context of the site and height of developments permitted in the area.

The Planning Authority in the Chief Executive report referenced consultations with the Department of Defence and a submission received and that this formed the basis for their recommendation that Block A be reduced in height to address the concerns raised relating to operations at Casement Aerodrome.

I note that a submission originally submitted by the Department of Defence is referenced in the South Dublin County Council Chief Executive Report, however this was withdrawn. A submission received from the Department of Defence on the 7<sup>th</sup> December 2020 noted no objection to the proposed development subject to standard conditions relating to the use of cranes.

The applicant has put forward the justification for material contravention of the height parameters based on the location of the site, access to public transport with high capacity, frequent services and good links to other modes of public transport. The applicant holds that the development would be a sustainable use of zoned serviced lands. And have detailed that the apartment buildings have been designed to ensure minimal impacts to adjacent permitted developments

The applicant also sets out a detailed assessment of the development in the context of the Urban Development and Building Height Guidelines for Planning Authorities 2018 in their Statement of Consistency.

The CGIs of the proposed development clearly illustrate the transition in heights between the proposed development and the permitted development immediately adjoining the site. I consider that the proposal would not be visually dominant when viewed from the surrounding area.

The Local Area Plan sets out certain design parameters for development at this location which pre date the development management criteria set out in the Urban Development and Building Height Guidelines. The Guidelines provide clear criteria to be applied when assessing applications for increased height. The Guidelines describe the need to move away from blanket height restrictions and that within appropriate locations, increased height will be acceptable even where established heights in the area are lower in comparison. In this regard, SPPR 3 and 4 and the Development Management Criteria under section 3.2 of these section 28 guidelines have informed my assessment of the application. This is alongside consideration of other relevant national and local planning policy standards. Including national policy in Project Ireland 2040 National Planning Framework, and particularly objective 13 concerning performance criteria for building height, and objective 35 concerning increased residential density in settlements.

SPPR 3 states that where a Planning Authority is satisfied that a development complies with the criteria under section 3.2 then a development may be approved, even where specific objectives of the relevant Development Plan or Local Area Plan may indicate otherwise. In this case, the Local Area Plan indicates a maximum height of 3 storeys while the proposed development has a height 4 to 8 storeys. I have addressed the material contravention in section 11.13 and below I provide further assessment against the criteria in section 3.2 here.

**(i) At the scale of the relevant city/town:**

The site is located in a highly accessible location directly onto Fortunestown Lane and Garters Lane. I consider the proposed quantum of residential development, residential density and housing mix acceptable in the context of the location of the site in an area that is undergoing significant redevelopment, is an area in transition that is 1 km or less from Saggart village, City West Shopping Centre and City West Business Campus, Saggart and Fortunestown LUAS stops and is considered to be in accordance with relevant national policies

**(ii) At the scale of district/neighbourhood/street:**

This relates to the character of the area in which the development is located. The site is not in an Architectural Conservation Area or contain or immediately adjoin any protected structures. The nearest protected structure is on the western side of Garters Lane opposite the site. The highest element (24m) is focused on the corner of Garters lane and Fortunestown Lane with the lower element (13m parapet) at the northern portion.

The site is located in an area which is the subject of extensive redevelopment and an area in transition and is a busy and robust environment, characterised by a range of architectural styles. Traditional 2 storey suburban housing in the wider area is giving way to the higher density developments and apartment blocks. Fortunestown Lane and surrounds are characterised by a mixture of heights and scale and is an area undergoing significant redevelopment and transition. While the proposed development represents a change in scale, height across the site is stepped to have regarding to existing and permitted heights.

The use of material and finishes to the elevations contributes to breaking down the overall mass of the proposed development. CGIs and 3D imagery of the proposed development, alongside a landscape and visual impact assessment, have also been submitted with the application and have assisted in my assessment of the proposal. Overall, I consider the height and massing of the development appropriate for the location.

**(iii) At the scale of the site/building:**

The proposed development will improve the street frontage along Garter's Lane and Fortunestown Lane where the LUAS line and stop are located and assist in consolidating the urban fabric for this development block. The proposal includes new public realm, active frontages and fenestration that will passively survey surrounding roads and internal streets. It will contribute to the legibility of the area, by establishing a positive addition to the streetscape. The addition of apartment units will contribute to the dwelling mix of the location. Residential Amenities are addressed in section 11.7. Sunlight and daylight consideration are addressed in section 11.7.2. Flood Risk Assessment has been carried out and this is addressed in section 11.9.4.

I therefore find that the proposed development satisfies the criteria described in section 3.2 and therefore SPPR 3 of the Building Height Guidelines.

Having regard to the considerations above, I consider that the proposal in principle for 4 to 8 storey buildings at this location is acceptable.

I am of the view that having regard to national guidance, the context of the site in a highly accessible location which is undergoing significant redevelopment and extant permissions on the adjoining site, a grant of permission for the proposed development despite its height exceeding that prescribed in the Local Area Plan is justified in this instance

## **11.6 Unit Size**

The Planning Authority have highlighted that the proposed apartments would materially contravenes the average floor area per unit set out in the Fortunestown Local Area Plan. Objective FC6b requires that minimum floor areas of all developments throughout the Plan lands shall be 110sq.m.

The applicant has set out in the Material Contravention Statement that the development is compliant with the minimum floor areas set out in SPPR 3 of the 2018 Apartment Guidelines.

A schedule of Accommodation submitted sets out in detail the individual floor areas. I note that the average unit size ranges are as follows: 1 bed (49.5 to 51.13sq.m), 2 bed (73.5 to 84.64 sq.m) and 3 bed (99.4 to 102.7sq.m). These comply with the minimum requirements set out in SPPR3 for 1 bed (45sq.m), 2 bed 3P (63sq.m), 2 bed 4P (73sq.m) and 3 bed (90sq.m).

I am satisfied that a material contravention in this instance is justified on the grounds that the proposed development complies with the minimum floor areas set out in SPPR3 of the Apartment Guidelines.

## **11.7 Residential Amenities**

### **11.7.1 Residential Standards for future occupiers**

The development is for 224 apartments and as such the Sustainable Housing: Design Standards for New Apartments 2018 (referred to as the Apartment Guidelines) has a bearing on the design and minimum floor areas associated with the apartments. In this context the Guidelines set out Special Planning Policy Requirements (SPPRs) that must be complied with.

The Architectural Design Statements, Planning Report and Statement of Consistency submitted have addressed compliance with the relevant standards.

Appendix 1 of the Apartment Guidelines set out minimum storage requirements, minimum aggregate floor areas for living / dining / kitchen rooms, minimum widths for living / dining rooms, minimum bedroom floor areas / widths and minimum aggregate bedroom floor areas. The submitted schedule of areas indicates that all apartments meet or exceed the minimum storage area, floor area and aggregate floor area and width standards.

In terms of amenities for future occupants the development is of a high standard. It complies with the requirements of the 2018 Apartment Guidelines. The proposal complies with SPPR3 (internal floor areas), SPPR 4 (dual aspect) SPPR5 (ceiling heights) and SPPR6 (units per stair core).

Section 4.5 of the Apartment Guidelines encourage the provision of communal rooms and communal facilities in apartment schemes, particularly in larger developments. The current proposal is for 224 apartments and does not include internal communal facilities and services. The planning Authority have not raised concerns regarding the lack of communal facilities.

I am of the opinion that the design and internal layouts of the development are generally satisfactory with regard to national guidance for residential development and that there will be a reasonable standard of residential accommodation for future residents of the scheme.

#### **11.7.2 Impact on adjoining properties/lands**

The application site is bounded by development land which are either the subject of extant permission that are either under construction or yet to commence. The nearest existing residential properties are either on the opposite side of Garter's Lane or the south east along the opposite side of Fortunestown Lane.

I consider that the design of the elevations of the apartment blocks, internal configuration of apartment layouts, the relationship of the buildings to the site boundaries and each other and the separation distance from the nearest permitted and existing residential properties would serve to mitigate the potential for overlooking.

In relation to potential of overshadowing, the proposed apartment blocks are located to the west and south of the permitted residential developments that directly bound the site. A Sunlight and Daylight Assessment have been submitted.

I note that overshadowing of adjacent lands at present occurs due to the presence of trees, the impact from the proposed development would not have such an incremental impact as to have a negative impact on the residential amenities of the nearest permitted properties (ABP 300555-17 and ABP 305563-19) given the set back of the proposed structures from the site boundaries, their heights and orientation.

I am satisfied that overshadowing of units within the scheme is not a concern.

Overshadowing and overlooking have not been raised by third parties. Visual impact through the loss of green areas was raised by Mr Charter but I note that visual dominance regarding the height, bulk or mass of the proposed scheme was not raised.

The Planning Authority has not raised any concerns relating to impacts on adjoining developments (permitted or under construction) or units within the proposed scheme. I am satisfied that given the nature of the site and its context, the issue of detrimental impact on adjoining properties by virtue of overlooking, overshadowing or visual dominance does not arise.

### **11.8 Traffic and Transportation**

The applicant has submitted a Traffic and Transport Assessment (TTA), this includes a Stage 1 Road Safety Audit, Preliminary Travel Plan and DMURS Statement of Consistency. The applicant is satisfied that the traffic generated by the proposed development can be accommodated on the existing road network and no specific junction improvements are necessary in the area.

The site will be served by one vehicular entrance of Garters Lane. This access road traverses the site from west to east and links to the permitted development to the east. The scheme is permeable to both vehicular traffic and pedestrians. Additional links are shown on the site layout to the adjacent lands and public roads which have been referred to in section 11.4.2 of this report. The vehicular access includes the provision of a dedicated right turn lane for intended management of traffic turning in to the site as requested by SDCC.

I am satisfied, in particular having regard to the TTA and comments from the Planning Authority, that the proposed development will pose an unacceptable level of traffic hazard or unduly impact on the carrying capacity of the surrounding road network, and that subject to conditions, the development is acceptable from a traffic/roads perspective.

The TTA concludes that the proposed development will have a negligible impact on the operation of adjoining road networks. It also notes that the site is a c. 2 min walk to Saggart Luas Stop and within 15 min walk/5 min cycle to City West Shopping Centre and City West Business Campus. Therefore, the site is ideally placed to take advantage of and contribute to sustainable non car model of travel.

I note that a submission from Transport Infrastructure Ireland (TII) concentrates simply on the protection of the light rail line during and after construction, capacity issues are not raised. The National Transport Authority (NTA) and Transdev (the Luas operator) did not make a submission.

The applicant has proposed a development that will provide 191 no. car parking spaces for the proposed 224 apartments. The car parking spaces will be provided at basement level Block A/B with 87 spaces and Block C/D with 95 with 11 no. Visitor/set down spaces provided at surface level. Given the location of the application site and its good public transport connections the planning authority are of the view that the quantum of parking proposed is excessive and should be reduced to a ratio of 0.6 spaces per unit.

I note that the permitted development to the east has a ratio of 0.75 spaces per unit under ABP Ref. 305563-19.

In this instance I note that the proposed development is for build to sell apartments and the proposed parking equates to 0.8per unit. The Planning Authority is of the view that in this instance the proposed parking is excessive given the proximity of the LUAS and the accessible nature of the site. I acknowledge that the location of the proposed development strengthens the argument for reduced parking. However, I am cognisant of the adjoining development that was granted permission in February 2020 for parking at a rate of 0.75 spaces per unit and therefore in that context I consider 0.8 appropriate.

A Statement of Consistency with DMURS has been submitted with the application. The planning Authority have not raised any concerns pertaining to same.



I am satisfied that the development provides for an appropriate route hierarchy throughout the scheme. Routes are legible and animated with active frontages. Adequate facilities are provided to facilitate pedestrians and cyclists and the scheme is generally compliant with the principles of DMURS.

On balance given the location of the serviced site in an area where good public transport links exist within comfortable walking distances, future residents will be well served by public transport and encourages a modal shift away from the private car. I am satisfied that the proposal is broadly in compliance with national, county and local objectives with respect to transport.

## **11.9 Infrastructure**

### **11.9.1 Foul**

The applicant has outlined in the documentation submitted that South Dublin County Council drainage records show that there is an existing 225mm diameter foul sewer traversing Fortunestown Lane flowing south to north into the subject site. Following topographical surveys it was however, found that the sewer does not traverse into the site and stops short of the Luas line and then goes west along Fortunestown Lane and flows east to west towards the Naas Road.

The proposed development will be served by a new drainage system with separate sewers and manholes for both foul and stormwater within the site boundaries.

All foul effluent generated by the upper floors shall be collected in separate foul pipes and flow under gravity to the existing 225mm diameter foul sewer on Garters Lane via a new connection. For the basement level, each proposed apartment block's foul effluent shall be collected in pipes of 150mm diameter flowing under gravity to a pump station located on the basement to a standoff manhole at ground level.

I note the concerns raised by Inland Fisheries Ireland (IFI) regarding discharges from Ringsend WWTP. The application documentation (see Appropriate Assessment Screening Report) notes that the proposed development would discharge to Oberstown WWTP. I further note that neither Irish Water nor the Council's Drainage Department raised this matter.

Irish Water have stated that the proposed development can be accommodated without networks upgrades.

### **11.9.2 Water**

There is an Irish Water public watermain (200mm diameter MoPVC) adjacent to the site on Garters Lane and Fortunestown Lane. An new connection is proposed to the existing watermain at Garters Lane and proposed to supply a 150mm diameter watermain to site. Irish Water have noted no objection subject to the standards connection agreements.

### **11.9.3 Surface water**

SDCC drainage records show a stormwater sewer at the south western corner of the site on Garters Lane.

It is proposed to split the site into two areas for attenuation (using the access road as the marker). This results in two separate attenuation systems to serve the development, one at either side of the access road. The applicant has set out the rationale for this based on the road being taken in charge and the need to avoid traversing from private to public and back to private lands in the future.

Blue roof systems is the method of attenuation used to serve both attenuation zones and shall be located on the podium stack above each basement.

Restricted flows from the two attenuation zones then discharge to the existing stormwater network on Garters Lane.

Surface water and attenuation proposals have been queried by the Council's drainage section, however it is noted that outstanding issues can be conditioned.

### **11.9.4 Flood Risk Management**

The site is located in Flood Zone C.

A Site Specific Flood Risk Assessment has been submitted with the application and the information contained therein appears reasonable and robust. The planning authority have not raised concerns in relation to flood risk. I am satisfied in this regard.

#### **11.9.5 Conclusion**

The site can be facilitated by water services infrastructure and the planning authority and Irish Water have confirmed this. I am satisfied that there are no significant water services issues that cannot be addressed by an appropriate condition. I note the requirements of Irish Water and the Council's Drainage Section which can be addressed by condition if the Board considers granting permission. I am also satisfied that there is no potential flood risk in the vicinity of the proposed site.

#### **11.10 Part V**

Mr Charters in his submission noted that there was no reference to social housing in the documentation submitted. The applicant includes the requisite Part V information and documentation as required by legislation.

It is proposed to provide 34 no. units to meet the requirements of Part V. These are proposed in Block D. South Dublin County Council's preference is for Part V to be provided on site. South Dublin County Council are the Planning Authority for the area and they are satisfied that the proposals meet their requirements and I am satisfied that this can be addressed by condition.

If the Board is disposed to grant permission a condition should be attached requiring the development to comply with the provisions of section 97 of the Planning and Development Act 2000 as amended.

### 11.11 Legal interest in the land

The issue of landownership has been raised by a third party (Clapton Ireland) Limited in their submission and a copy of a Deed of Conveyance has been submitted regarding lands in the townland of Saggart, Barony of Newcastle and County of South Dublin comprising 3 acres or thereabout statute measure. No map has been submitted with the submission.

The applicants in Q.7 of The Strategic Housing Development Application Form have stated that they, Cape Wrath Hotel ULC are the site owners. The application site has been outlined in red in the documentation submitted with the application for SHD before the Board.

I note the information set out above and I further note that it is not for the planning system to resolve matters relating to landownership.

Section 5.13 of The Development Management, Guidelines for Planning Authorities (2007) refer to Issues relating to title of land. This section states that *the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution by the Courts. In this regard, it should be noted that, as section 34 (13) of the Planning Act states, a person is not entitled to solely by reason of a permission to carry out any development. Where appropriate, an advisory note to this effect should be added at the end of the planning decision.*

The Guidelines also set out that permission may be granted even if doubt remains. However, such a grant of permission is subject to the provision of section 34(13) of the Act. In other words the developer must be certain under civil law that he/she has all the rights in the land to execute a grant of permission.

I am of the view that it would be unreasonable to refuse permission in relation to this matter. The question of ownership of land is a legal matter and outside the scope of a planning permission.

## **11.12 Other Matters**

### **11.12.1 Trees**

The fundamental issue raised by Mr Charter relates to the removal of trees and loss of green areas, the submission does not solely refer to the application site and lists out a number of areas and trees which are not within the site boundaries.

The Department of Culture, Heritage and The Gaeltacht in their submission dated 7<sup>th</sup> October 2020 noted that the trees to be removed are exotic ornamental species planted in recent decades and their removal would have minimal impacts in terms of biodiversity. The Department have no objection to their removal. I have inspected the site and I concur with the Department. The site is a former compound hardcore area, rectangular in shape which was the subject of historical site clearance. The remaining trees on site form the boundaries and are of non-native species.

### **11.12.2 Issues raised by third parties**

Other issues raised by Mr Charter are in the form of a query and a request for a response/feedback was included. The purpose of this report is to assess the development proposed under ABP 308088-20 and assess the documentation and plans and particulars submitted with the application in conjunction to addressing issues raised by the Planning Authority, Prescribed Bodies and Observers. The assessment is contained in this report and will be available to the observer once the Board has made a decision.

Clapton (Ireland) Limited in their submission outlined that they were involved in a number of unsuccessful applications for this site, it is not clear if these refer to the applications noted below on behalf of H.S.S Limited summarised in section 4 of this report.

### **11.12.3 Social Infrastructure**

The Apartment Guidelines, 2018, states that the threshold for provision of childcare in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. The guidelines state that 1 bed or studio units should generally not be considered to contribute to a requirement for childcare provision and, subject to location, this may also apply in part or whole to units with 2 or more bedrooms.

A Social Infrastructure Audit has been submitted. This has set out that there are a significant number of childcare facilities, existing and permitted within the local area. The Planning Authority have not raised the requirement for a childcare facility as part of the current application.

Having regard to the guidance contained in the Apartment Guidelines and in view of the development being comprised of predominately of 1 and 2 bed units and the existing available facilities in the area, I am satisfied that the omission of childcare from the development is acceptable.

### **11.12.4 Construction & Demolition**

I acknowledge that there will be some disruption during the course of construction works, including that from construction noise. Such disturbance is anticipated to be relatively short-lived in nature. The nature of the proposal is such that I do not anticipate there to be excessive noise/disturbance once construction works are completed. If the Board is disposed towards a grant of permission, I recommend that such issues like wheel wash facilities, hours of works, site compound lighting and the like be dealt with by means of condition. A final Construction and Demolition Management Plan should be submitted and agreed with the Planning Authority prior to the commencement of any works on site.

### **11.12.5 Archaeology**

An Archaeological Assessment is submitted with the application. This notes that the site is partially located within the zone of archaeological potential associated with the historic settlement of Saggart (DU021-034). The Archaeological Assessment concludes that the proposed development area has been subject to a large degree of disturbance, which has likely resulted in the removal of any archaeological remains that may have been present. As such, no adverse impacts are predicted upon the archaeological resource as a result of the proposed development going ahead. The Planning Authority have concurred with the findings of the Assessment. I note that the Archaeological Assessment submitted by the applicant concluded that no archaeological mitigation is deemed to be necessary in relation to the proposed development.

The Department of Culture, Heritage and The Gaeltacht reported on nature Conservation, however, did not comment on archaeology.

I note that the Planning Authority have include archaeological monitoring conditions in their recommended schedule. There is low archaeological potential for the site. As the site is partially situated within a designated zone of archaeological potential, I am satisfied that a precautionary approach should be adopted and condition requiring archaeological monitoring during the construction phase should be attached.

### **11.13 Material Contravention**

11.13.1 The proposed development materially contravenes the South Dublin County Development Plan 2016-2022 in terms of H9 Objective 4 (height parameters) H8 Objective 1 and H8 Objective 2 (density) and the Fortunestown LAP 2012 (extended to 2022) in terms of Section 5.5.4 (building height), section 5.4.1 (density) and objective LUD8 and LUD10 unit mix and objective FC6b (unit size).

I note that the applicant has submitted a material contravention statement in relation to the matters outlined above, in all instances the justification or reasons put forward relate to the relevant section 28 guidelines, regional guidelines or national frameworks. The applicant has advertised that a material contravention statement is submitted as part of the application has as required under legislation.

Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the Development Plan, the Board may grant permission where it considers that:

*(i) the proposed development is of strategic or national importance,*

*(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,*

*or*

*(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,*

*or*

*(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.*

The current application has been lodged under the Strategic Housing legislation and the proposal is considered to be of strategic importance. I note the policies and objectives within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework (NPF) – Ireland 2040 which fully support and reinforce the need for increased residential density in settlements such as that proposed. National Policy Objective 35 of the NPF refers to such sites. I consider this to be one such site. Ultimately higher densities, result in greater numbers of people living at the right location, as well as taller buildings that should be delivered with greater unit mix and higher quality accommodation.

The applicants have argued all of these factors in the documentation submitted. I have addressed all of these points in the body of my report.

### **11.13.2 Height**

**H9 Objective 4** states that it is an objective

*“To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use Zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme.”*



In this instance the 'relevant approved Local Area Plan' is the Fortunestown LAP 2012 (extended to 2022).

Section 5.5.4 of the LAP restricts heights to a maximum of 3 storeys.

The building heights range from 4 to 8 storeys and exceed the prescribed height in the Fortunestown Local Area Plan. I consider the exceedance in terms of storeys proposed to be material.

The 2018 Building Height Guidelines provide that permission may be granted for taller buildings where the development management criteria in the guidelines are met, even where specific objectives of the relevant Development Plan or Local Area Plan indicate otherwise. In my opinion the proposed development meets the development management criteria set out in 'Urban Development and Building Height Guidelines for Planning Authorities' issued in 2018 (in particular section 3.2, Specific Planning Policy Requirement 3 and Specific Planning Policy Requirement 4). I have addressed compliance with section 3.2 in section 11.5 of this report.

Permission was granted on the adjoining lands (ABP Ref. PL06S.305563) which provides for a maximum height of 9 storeys establishing a precedent in this area in terms of heights exceeding the three storey limitation.

### **11.13.3 Density**

The South Dublin Development Plan contains a number of policies and objectives which seek to provide for higher residential densities and ensure the efficient use of zoned lands which. These include:

#### **Policy 8 Residential Densities:**

##### **"H8 Objective 1:**

*To ensure that the density of residential development makes efficient use of zoned lands and maximises the values of existing and planned infrastructure and services, inclusion public transport, physical and social infrastructure, in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).*

##### **H8 Objective 2:**

*To consider residential densities at appropriate locations that are close to Town, District and Local Centres and high capacity public transport corridors in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).”*

The above policies seek to increase densities within appropriate locations while H9 Objective 4 set limits and section 5.5.4 of the Local Area Plan sets a limit of three storeys (except for identified exceptional circumstances).

The Fortunestown Local Area Plan set out a density of 35-50 units per hectares. The proposed density is 190 units per hectare. This is not a de minimus exceedance and therefore I consider it material.

The proposed density is appropriate for this urban location and in compliance with relevant section 28 Ministerial Guidelines. The site is at a location suitable for higher densities in accordance with the ‘Guidelines on Sustainable Residential Development in Urban Areas, the National Planning Framework – Ireland 2040 and the RSES for the Eastern & Midlands Region, The 2018 Apartment Guidelines and the 2018 Building Height Guidelines

The RSES identifies Saggart as located within the Dublin Metropolitan Area. The MASP seeks to focus development on large scale strategic sites and on the redevelopment of underutilised lands, based on key transport corridors that will deliver significant development in an integrated and sustainable manner. Saggart is located along a ‘strategic development corridor’.

#### **11.13.4 Unit Mix**

Fortunestown Local Area Plan Objective LUD8 requires that no more than 10% of dwellings in any residential scheme are of the one bedroom type. The proposed development provides 36.6% one bed apartments. I consider the exceedance in terms of percentages proposed to be material.

Fortunestown Local Area Plan Objective LUD10 sets out to ensure that a minimum of 85% of all dwellings be provided as own door houses on their own site and that a maximum of 15% of the dwellings across the Plan lands be provided as apartments/duplexes with such dwelling limited to appropriate areas. The proposed development does not provide own door units and comprises 100% apartments.

The 2018 Apartment Guidelines, in particular SSPR1 sets out that developments may include up to 50% 1 bed or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with 3 or more bedrooms. The proposed mix complies with the requirements of SPPR1.

The proposal for 100% apartments will improve the range of housing types available in the general area. The proposed housing mix is acceptable and is in accordance with SPPR 4 of the Urban Development and Building Heights Guidelines for Planning Authorities. The provision of apartments at this location is also in accordance with the guidance set out in the Guidelines for Planning Authorities on Sustainable Residential Development.

I note the policies and objectives of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (March 2018) and the Specific Planning Policy Requirement (SPPRs) contained therein. In particular, I note that SPPR 1 of these Guidelines (2018) states that apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirements for apartments with three or more bedrooms. Statutory plans may specify a mix for apartment and other housing developments, but only further to an evidenced based HNDA, that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant Development Plan(s).

The operative County Development Plan and Local Area Plan conflicts with these guidelines in particular section 2.16 - 2.22 and Specific Planning Policy Requirement 1, 2 and 3.

I note the policies and objectives within Rebuilding Ireland – The Government's Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 which fully support and reinforce the need for urban infill residential development such as that proposed on sites in close proximity to quality public transport routes and within existing urban areas. I consider this to be one such site.

### **11.13.5 Unit Size**

I note that the Planning Authority have stated in the Chief Executive Report that the unit sizes materially contravene the Fortunestown Local Area Plan. Objective FC6b sets out that all units shall have a minimum floor area of 100sq.m. The average proposed floor area for the current scheme is c. 68.5sq.m. Please refer to section 11.6 where I have addressed this in more detail.

The development is compliant with the minimum floor areas set out in SSPR 3 of the Apartment Guidelines.

### **11.13.6 Conclusion**

I am of the opinion that given its RES N zoning, the delivery of residential development on this serviced zoned site would be consistent with policies and intended outcomes of the NPF and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness. The site is located in an accessible location, served by good quality public transport in an existing serviced area. The proposal serves to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community. The proposed development has been lodged under the strategic housing process, which aims to fast-track housing development on appropriate sites in accordance with the policies and objectives of Rebuilding Ireland. This legislation recognises the strategic importance of such sites in the provision of housing in meeting both current and future need. The proposed development meets or exceeds to requirements set out in the Urban Development and Building Height Guidelines for Planning Authorities, Sustainable Urban Housing: Design Standards for New Apartments and the Sustainable Residential Development in Urban Areas Guidelines.

I am of the view that material contravention is justified in this instance and permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 27, 33 and 35), the ‘Dublin Metropolitan Area Strategic Plan’ (in particular the provisions relating to ‘Saggart’), the ‘Urban Development and Building Height Guidelines for Planning Authorities’ issued in 2018 (in particular section 3.2, Specific Planning Policy Requirement 3 and Specific Planning Policy Requirement 4), ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for

Planning Authorities', issued in 2018 (in particular section 2.16 - 2.22 and Specific Planning Policy Requirement 1, 2 and 3) and the 'Guidelines for Sustainable Residential Developments in Urban Areas.

Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act (as amended), I consider that a grant of permission, that may be considered to material contravene the Development Plan and Local Area, would be justified in this instance under sub sections (i), (ii) and (iii) of the Act. I refer to Board to the recommended Draft Board Order for their deliberation.

#### **11.14 Chief Executive Report**

The Chief Executive Report concluded that the proposed development would be a material contravention of the Fortunestown Local Area Plan on the grounds of building height, density and unit mix (1-beds and apartments). In the context of the material contraventions, the Planning Authority acknowledges the previous decisions and precedents set by An Bord Pleanála in relation to similar developments in Fortunestown, the content of S.28 Ministerial Guidelines, the updated policy context since the adoption of the LAP and the pattern of permitted development in the area and the comments of the Board at Stage 2. I note that the Planning Authority did not include Unit Size in their material contravention summation. I have included this in section 11.13 above.

The Planning Authority concluded that noting the scale and nature of the proposed development, and noting also the issues raised at Stage 2 of the SHD process, and the information provided by the applicant at Stage 3, it is considered that the proposed development would be broadly consistent with the permitted pattern of development in the area, broadly accords with the Local Area Plan framework (apart from the material contraventions outlined) and would therefore generally accord with the proper planning and sustainable development of the area.

I have addressed concerns raised by the Planning Authority in my assessment.

The Planning Authority recommended that permission be granted subject to 31 conditions contained in Appendix 1 of the report. They are mostly standard conditions with the others of note including:

Condition No. 2 relating to 'modification/air traffic operations' which sets out the requirement to reduce the height of Block A by 2 floors and reduce the car parking to 108 no. spaces to be reduced pro rata from the reduction in units and to achieve a ratio of 0.6 spaces per unit. Condition No. 2(a) was attached to address concerns raised by the Department of Defence in a submission that was withdrawn. The submission on file (dated 7<sup>th</sup> December 2020) raised no objection on height and I do not consider that condition 2(b) is required.

Condition No. 3 (Roads), this includes inter alia a) the provision of a right turning lane on Garters Lane into the development at the main access point. This is reasonable, I propose a more general condition that requires details to be agreed prior to the commencement of development.

Condition No. 5 refers to the requirements set out the Environmental Section that remain to be addressed. This is reasonable, I propose a more general condition that requires details to be agreed prior to the commencement of development.

Condition No. 10 and 11 refer to archaeological monitoring. This is reasonable.

Condition No. 15 refers to nature Conservation (DAU recommended conditions). These are reasonable.

Condition No. 19 refers to Luas Operation and Safety. These are reasonable.

Condition No. 24 refers to Japanese knotweed and Giant Knotweed. There is no evidence of invasive species on site and no reference to same in the Chief Executive report bar this condition.

Condition No. 29 refers to a Bond for Public Realm debris avoidance and redress. €500 per unit or other acceptable security. I do not consider this necessary or reasonable.

Condition No. 30 refers to section 48 Development Contributions. This is acceptable

Condition No. 31 refers to Bond for the satisfactory completion of the development. This is acceptable.

For the most part, I agree with the proposed conditions subject to modifications should the Board be minded to grant permission

## 12.0 Environmental Impact Assessment Screening

Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

The proposed development is for 224 apartments in 4 no. blocks on a site c. 1.18hectares. The proposed development is considered to be sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 (as amended).

The applicant submitted an EIA Screening Report including the information set out in Schedule 7A of the Planning and Development Regulations, 2001 (as amended) to allow a screening for EIA in accordance with the criteria in Schedule 7 regarding the

- Characteristics of Proposed Development
- Location of Proposed Development
- Types and Characteristics of Potential Impacts

I have assessed the proposed development having regard to the above criteria and associated sub criteria having regard to the Schedule 7A information and other information which accompanied the application, inter alia, Appropriate Assessment Screening, and landscape details and I have therefore completed a screening assessment as set out in Appendix 3.

I recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

The conclusion of this is assessment is as follows:

Having regard to

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned to protect and provide for residential communities in accordance with approved area plans in the South Dublin County Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan;
- (c) the location of the site on lands identified within Framework 5 - Saggart-Cooldown Commons Neighbourhood in the Fortunestown Local Area Plan 2012 (extended to May 2020)
- (d) The existing use on the site and pattern of development in surrounding area;
- (e) The planning history relating to the site
- (f) The availability of mains water and wastewater services to serve the proposed development,
- (g) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (h) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction & Demolition Waste Management Plan (CDWMP).

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



## 13.0 Appropriate Assessment Screening

The proposed development comprises of the construction of 224 No. apartments in 4 No. blocks all over basement level car park (2 No. separate basement). The scheme provides for vehicular access via Garters Lane to the west and will also allow for access from the permitted development to the east. It is spilt into two by an access road that provides a link to new granted development to the east. It is proposed to provide two separate attenuation systems to serve the development, i.e. either side of the access road. A blue roof system will be the method of attenuation used to serve both schemes T054 Engineering Services Report of the development and will be located on the podium slab above each basement.

A Pre-Connection Enquiry for 201 No. apartment units was submitted to Irish Water, The current application lodged under ABP 308088-20 is for 224 apartments. Irish Water in their submission have noted no objection. The author of the Appropriate Assessment Screening Report noted that based on discussions with CS Consulting the ultimate destination for the foul sewer is the Oberstown WWTP.

A Stage 1 Appropriate Assessment Screening Report was submitted with the application. The site was inspected on the 14<sup>th</sup> April 2020 and report is dated 21<sup>st</sup> August 2020. The entire site is composed of artificial/infill surfaces. A disused vegetated stream was identified c. 500m north (downstream) of the site. There is no water courses on site with infill material extending to the boundaries, and reference to the Baldonnell Little Stream along the western boundary is historical as it is no longer present on site and there is infill within the stream bed both upstream and downstream of the proposed development. Based on the WFD the Baldonnell Little Stream is located to the south in the Golf Course. There is no direct hydrological pathway to any Natura 2000 sites.

The AA Screening Report describes the development and identifies that the site is not located within or directly adjacent to any Natura 2000 sites. It concludes that the zone of influence would be seen to be restricted to the site outline with potential for minor localised noise and light impacts during construction. However, drainage from site, both foul and surface water, would be seen as external output from the site

during construction and operation that could potentially extend the zone of influence. There is no direct hydrological connection to any Natura 2000 site.

The Screening Report submitted with the application based on the precautional principle identified sites within a 15km radius for initial screening as follows:

European Site (code)	Distance to site	List of Qualifying Interest (QI)/Special Conservation Interest (SCI)
Special Area of Conservation (SAC)		
Glenasmole Valley SAC (site code 001209),	5.6km	6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates ( <i>Festuco Brometalia</i> ) (* important orchid sites)* 6410 Molinia meadows on calcareous, peaty or clayey-silt-laden soils ( <i>Molinion caeruleae</i> ) 7220 Petrifying springs with tufa formation ( <i>Cratoneurion</i> )* * denotes a priority habitat
Wicklow Mountains SAC (site code 002122),	6.6km	3110 Oligotrophic waters containing very few minerals of sandy plains ( <i>Littorelletalia uniflorae</i> ) 3160 Natural dystrophic lakes and ponds 4010 Northern Atlantic wet heaths with <i>Erica tetralix</i>
Rye Water Valley/Cartron SAC (site code 001398),	9.1km	7220 Petrifying springs with tufa formation ( <i>Cratoneurion</i> )* * denotes a priority habitat 1014 Narrow-mouthed Whorl Snail ( <i>Vertigo angustior</i> ) 1016 Desmoulin's Whorl Snail ( <i>Vertigo moulinsiana</i> )
Red Bog SAC (site code 000397)	11.5	7140 Transition mires and quaking bogs
Special Protection Areas (SPA)		
Wicklow Mountains SPA (site code 004040)	10.6km	<i>Falco colombarius</i> (Merlin) [A098] <i>Falco peregrinus</i> (Peregrine) [A103]
Poulaphouca Reservoir SPA (site code 004063).	11.9km	A043 Greylag Goose ( <i>Anser anser</i> ) A183 Lesser Black-backed Gull ( <i>Larus fuscus</i> )

It was noted that there is no direct hydrological pathway to any of these sites. The Screening Report considers whether the proposed development would have any potential impact on the qualifying interests and conservation objectives of these sites.

The Screening report submitted by the applicants concludes that:

*“ the proposed site is located in a suburban environment a minimum of 5.6km from the nearest Natura 2000 site.. There is no direct hydrological pathway from the proposed development site to a Natura 2000 site. However, there is an indirect*

*pathway to Dublin Bay and Natura 2000 sites via the surface water connection and foul water to Oberstown WWTP. All discharges from the site will undergo settlement, mixing and dilution within the public sewer and treatment network prior to reaching Dublin Bay 16km from the proposed development via the public water network.*

*No Natura 2000 sites are within the zone of influence of this development. Having taking into consideration the effluent discharge from the proposed development works, the distance between the proposed development site to designated conservation sites, lack of direct hydrological pathway or biodiversity corridor link to conservation sites and the dilution effect with other effluent and surface runoff, it is concluded that this development that would not give rise to any significant effects to designated sites. The construction and operation of the proposed development will not impact on the conservation objectives of features of interest of Natura 2000 sites. In addition, no in-combination effects are foreseen.*

*This report presents a Stage 1 Appropriate Assessment Screening for the Proposed Development, outlining the information required for the competent authority to screen for appropriate assessment and to determine whether or not the Proposed Development, either alone or in combination with other plans and projects, in view of best scientific knowledge, is likely to have a significant effect on any European or Natura 2000 site”.*

The site is not located within any European site. It does not contain any habitats listed under Annex I of the Habitats Directive. The site is not immediately connected to any habitats within European sites.

I note that there are no direct hydrological links to any Natura 2000 sites within the identified zone of influence nor are there any identified intact biodiversity corridors and any protected sites and therefore can be screened out.

I have reviewed the NPWS web site and based on the potential indirect pathways consider that there are other sites which should be included within the zone of influence of the subject site for the purposes of screening for appropriate assessment arising from an indirect pathway through the foul sewer to Dublin Bay via the River Liffey and these include North Dublin Bay SAC (site code000206), South

Dublin Bay SAC (000210), South Dublin Bay and River Tolka Estuary SPA (004024) and North Bull Island SPA(004006).

Given the potential for indirect linkages I am also including the following sites in my screening exercise:

European Site (code)	Distance to site	List of Qualifying Interest (QI)/Special Conservation Interest (SCI)
Special Area of Conservation (SAC)		
North Dublin Bay SAC (000206)	c.19.6km to northeast	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritima</i> ) [1330] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]
South Dublin Bay SAC (000210)	c.16.2km to the east	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]
Special Protection Areas (SPA)		
South Dublin Bay and River Tolka Estuary SPA (004024)	c.16.2km to the east	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Oystercatcher ( <i>Haematopus ostralegus</i> ) [A130] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Knot ( <i>Calidris canutus</i> ) [A143] Sanderling ( <i>Calidris alba</i> ) [A144] Dunlin ( <i>Calidris alpina</i> ) [A149] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157]

		<p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
North Bull Island SPA(004006)	c.19.6km to north east	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>

The Conservation Objectives for each for the European sites are detailed below:

European Site	Conservation Objective
Glenasmole Valley SAC (site code 001209),	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. The favourable conservation status of a species is achieved when:
Wicklow Mountains SAC (002122)	<p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected. The favourable conservation status of a species is achieved when:</p> <ul style="list-style-type: none"> <li>• population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and</li> <li>• the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and</li> <li>• there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.</li> </ul>

<ul style="list-style-type: none"> <li>• Rye Water Valley/Cartron SAC (001398)</li> <li>• Red Bog SAC (000397)</li> <li>• North Dublin Bay SAC (000206)</li> </ul>	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:
South Dublin BAY SAC (000210)	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in South Dublin BAY SAC, which is defined by the following list of targets: The permanent habitat area is stable or increasing, subject to natural processes. Conserve the high quality of the Zostera-dominated community, subject to natural processes. Conserve the following community type in a natural condition: Fine sands with <i>Angulus tenuis</i> community complex.
<ul style="list-style-type: none"> <li>• Wicklow Mountain SPA (004040)</li> <li>• Poulaphouca Reservoir SPA (004063)</li> <li>• South Dublin Bay and River Tolka Estuary SPA (004024)</li> </ul>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
North Bull Island SPA (004006)	The maintenance of habitats and species within the Natura 2000 sites at favourable conservation condition will contribute to the overall maintenance of favourable conservation status of those habitats and species at national level.

### Potential for likely significant Effect

The submitted screening report notes the location of the site with no direct hydrological pathway to any of the European Sites. The application site does not overlap with the boundary of any European site, therefore there are no European sites at risk of direct habitat loss impacts. No habitats associated with any species as SCIs of the European sites are identified on the site. No effects to Natura 2000 areas can occur due to the temporary nature of works and the fact that there is no direct pathway to the nearest watercourses.

Inland Fisheries Ireland has made a submission in relation to the impact of the development on the surface water and the capacity of Ringsend WWTP. The proposal will discharge to Obbertown WWTP which forms part to the Upper Liffey Valley Sewerage Scheme. There are indirect links to Dublin Bay which is c. 16km away.

I am satisfied that the design of the system takes into account the nature and scale of the development, ie a housing development of moderate size which will be constructed and operated in accordance with standard environmental features associated with residential developments, it is not considered that the proposed development would have potential to have a significant impact on the water quality (and hence various qualifying interests of the Dublin Bay marine habitats).

Irish Water in their report have indicated no issues with regard to surface water or foul and I note that the connection for the development to wastewater infrastructure is subject to agreement with Irish Water.

SuDS measures will protect the local drainage network from negative impacts to surface water drainage and are not introduced here to avoid or reduce an effect to any Natura 2000 area. They constitute the standard established approach to surface water drainage for construction works on greenfield sites, their implementation would be necessary for a housing development on any greenfield site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on a greenfield site whether or not they were explicitly required by the terms or conditions of a planning permission. Their efficacy in preventing the risk of a deterioration in the quality of water downstream of construction works has been demonstrated by long usage. Therefore, the proposed development would be not likely to have a significant effect the quality of the waters in the Natura 2000 sites downstream of the application site. Any potential impact would only arise if the proposed development were carried out in an incompetent manner or with reckless disregard to environmental obligations that arise in any suburban area whether or not it is connected to a Natura 2000 site.

The proposed development is likely to result in a negligible increase in the discharge of wastewater to the Irish Sea. The development will incorporate SuDS and drain to the municipal system. It is considered that there is no risk that pollutants could reach the Natura 2000 sites in sufficient concentrations to have any likely significant effects on its qualifying interests.

The site is located in an urban area and does not contain any habitats listed under Annex I of the Habitats Directive. Due to the distance separating the site and the

identified SPAs/SACs, there is no pathway for loss or disturbance of important habitats or species associated with these Natura 2000 sites.

There is an indirect hydrological link between the development site and Natura 2000 sites in Dublin Bay via surface and wastewater pathways. During the construction phase, it is anticipated that there will be no significant effects to the SPA/SAC in Dublin Bay from pollution or contamination due to the scale of the project and significant separation distances involved. During the operational phase, attenuation and SuDS are incorporated into the scheme to ensure no negative impact to the quality or quantity of run off to the surface water drainage network.

The AA Screening report submitted by the applicant found the Poulaphouca Reservoir SPA (site code 004063) within the zone of influence. The Poulaphouca Reservoir is the source of drinking water supply for the Dublin Region. The site is c.11.9km from the SPA and the Applicant's Appropriate Assessment Screening Report measured the proposal against the conservation objectives for the designated site and noted no potential impacts. I am satisfied that taking into account the scale of the proposed development, the demand the proposed development would place on water abstraction from the reservoir would be negligible in the regional context and unlikely to have a significant effect on the SPA or its qualifying interests.

The potential for in combination impacts can also be excluded.

Several residential developments have been permitted in the Fortunestown area, subject to appropriate drainage and wastewater treatment requirements being implemented for these developments there will be no significant adverse effects due to the proposed development as a result of any in combination effects with these individual planning applications.

Implementation of the WFD will ensure that improvements to water quality in Dublin Bay can be maintained.



The proposed development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects.

### **AA Screening Conclusion**

The proposed development site lies outside the boundaries of the Natura 2000 sites identified above and therefore there will be no reduction in habitat. The project is not directly connected to the management of any Natura 2000 site. It is concluded with the Appropriate Assessment Screening that the proposed development will have no significant impact upon any Natura 2000 sites. Having regard to 'source-pathway-receptor' model, the proposal either individually or in-combination with other plans or projects could not be considered to have likely significant effects in view of the sites conservation objectives. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

I have had due regard to the screening report and data used by the applicant to carry out screening assessment and the details available on the NPWS website in respect of the Natura 2000 sites identified, including the nature of the receiving environment and proximity to the nearest European site. I consider it is reasonable to conclude that on the basis of the information on the file which includes inter alia, the AA screening report submitted by the applicant and all the planning documentation, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the said sites conservation objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **14.0 Conclusion**

In conclusion, I consider the principle of residential development to be acceptable on this site. I am of the opinion that this is a zoned, serviceable site within an established urban area where a wide range of services and facilities exist. I have no information before me to believe that the proposal, if permitted, would put undue

strain on services and facilities in the area. In my opinion, the proposal will provide a high quality development, with an appropriate mix of apartment units and an acceptable density of development. I am satisfied that the proposal will not impact on the visual or residential amenities of the area, to such an extent as to warrant a refusal of permission.

I consider the proposal to be generally in compliance with national policy and local policy (apart from the material contraventions outlined in section 11.13) together with relevant section 28 ministerial guidelines and would be broadly consistent with the permitted pattern of development in the area, I also consider it to be in compliance with the proper planning and sustainable development of the area and having regard to all of the above, I recommend that permission is granted, subject to conditions.

## **15.0 Recommendation**

Having regard to the above assessment, I recommend that section 9(4)(b) of the Act of 2016 be applied and that permission is GRANTED for the development as proposed for the reasons and considerations and subject to the conditions set out below.

## **16.0 Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) the policies and objectives in the South Dublin County Council Development Plan 2016-2022;
- (b) the policies and objectives in the Fortunestown Local Area Plan 2012 (extended to May 2022);
- (c) the nature, scale and design of the proposed development;
- (d) the availability in the area of a wide range of educational, social, community and transport infrastructure,
- (e) the pattern of existing and permitted development in the area
- (f) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;

(g) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

(h) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;

(i) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

(j) the submissions and observations received

(k) The South Dublin Chief Executive Report dated 2<sup>nd</sup> November 2020.

And

(l) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment screening and environmental impact assessment screening.

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, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **17.0 Recommended Draft Board Order**

**Planning Authority:** South Dublin County Council

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the Cape Wrath Hotel ULC care of Tom Phillips & Associates, 80 Harcourt Street, Dublin 2.

## **Proposed Development:**

A Strategic Housing development at this site of c. 1.18ha at Garters Lane, Saggart, Co. Dublin.

The development consists of 224 no. apartment units comprising 82 no. 1 bed units, 121 no. 2 bed units and 21 no. 3 bed units arranged in 4 no. blocks (Block A to D) and all associated public open spaces, communal amenity spaces and private amenity spaces comprising terraces/balconies. The proposed blocks are arranged over 2 no. single storey level basements (accessed via 2 no. vehicular ramps to east of the site) and comprise 5 to 6 storey block with an 8 storey element as part of Block A. Vehicular access to serve the proposed development will be provided via a new access at Garters Lane and will also provide access to lands to the east (development permitted under ABP Ref. PL.06S.305563).

Permission is also sought for 191 no. car parking spaces (180 no. at basement level and 11 no. at surface level); 470 no. bicycle parking spaces (290 no. at basement level and 180 no. at surface level); 1 no. ESB Substation; 1 no. cycle store, hard and soft landscaping, pedestrian and cycle links, boundary treatments, public lighting, bin storage areas at basement, surface water drainage infrastructure and attenuation tanks and all associated site development and infrastructure works.

The application contains a statement setting out how the proposal will be consistent with the objectives of the South Dublin County Development Plan 2016-2022 and the Fortunestown Local Area Plan 2012 (extended until May 2022).

The application contains a statement indicating why permission should be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000 as amended, notwithstanding that the proposed development materially contravenes a relevant development plan or local area plan other than in relation to the zoning of the land.

## **Decision**

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

In coming to its decision, the Board had regard to the following: (a) the policies and objectives in the South Dublin County Council Development Plan 2016-2022;

(a) the policies and objectives in the South Dublin County Council Development Plan 2016-2022;

(b) the policies and objectives in the Fortunestown Local Area Plan 2012 (extended to May 2022);

(c) the nature, scale and design of the proposed development;

(d) the availability in the area of a wide range of educational, social, community and transport infrastructure,

(e) the pattern of existing and permitted development in the area

(f) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;

(g) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;

(h) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;

(i) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

(j) the submissions and observations received

(k) The South Dublin Chief Executive Report dated 2 November 2020.

and

(l) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment screening and environmental impact assessment screening.

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, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development

within a zoned and serviced urban area, the Screening Report for Appropriate Assessment submitted with the application, and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site, in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not, therefore, required.

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned to protect and provide for residential communities in accordance with approved area plans in the South Dublin County Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan;
- (c) the location of the site on lands identified within Framework 5 - Saggart-Cooldown Commons Neighbourhood in the Fortunestown Local Area Plan 2012 (extended to May 2020)
- (d) The existing use on the site and pattern of development in surrounding area;
- (e) The planning history relating to the site
- (f) The availability of mains water and wastewater services to serve the proposed development,

- (g) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (h) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction & Demolition Waste Management Plan (CDWMP).

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, the development could be granted subject to compliance with the conditions set out below and that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Fortunestown Local Area Plan in relation to building height, residential density and dwelling unit mix and floor area standards. The Board considers that, having regard



to the provisions of section 37(2)(b)(i)(ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Local Area Plan and City Development Plan would be justified for the following reasons and considerations:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to: the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); its location along an identified strategic corridor in the Dublin Metropolitan Area Strategic Plan (part of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and to facilitate the achievement of greater density and height in residential development in an urban centre close to public transport and centres of employment.

In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended):

The conflicting objectives between the South Dublin County Development Plan 2016-2022 and the Fortunestown Local Area Plan (2012 (extended to May 2022)) in relation to building height and density objectives.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework (in particular objectives 27, 33 and 35), the 'Dublin Metropolitan Area Strategic Plan' (in particular the provisions relating to 'Saggart'), the 'Urban Development and Building Height Guidelines for Planning Authorities' issued in 2018 (in particular section 3.2, Specific Planning Policy Requirement 3 and Specific Planning Policy

Requirement 4), 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities', issued in 2018 (in particular section 2.16 - 2.22 and Specific Planning Policy Requirement 1, 2 and 3) and the 'Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual' issued in 2009 (in particular section 5.8).

## Conditions

1. The proposed 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 default of agreement, such issues may be referred to An Bord Pleanála for determination.

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

2. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

3. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

4. 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 urban legibility.

5. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of amenity and public safety.

6. 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.

7.

Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

8. The following requirements in terms of traffic, transportation and mobility shall be incorporated and where required, revised drawings / reports showing compliance with these requirements shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development:

(a) The roads and traffic arrangements serving the site (including footpath connections and signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(b) The roads layout including junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings, car parking bay sizes and road access to the development shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the Planning Authority for such road works.

(c) Cycle tracks/paths within the development shall be in accordance with the guidance provided in the National Cycle Manual.

(d) The materials used in any roads/footpaths/set down areas provided by the developer shall comply with the detailed standards of the Planning Authority for such road works.

(f) The developer shall carry out a Stage 2 and Stage 3 Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit), which shall be submitted to the Planning Authority for its written agreement. The developer shall carry out all agreed recommendations contained in the audits, at the developer's expense.

**Reason:** In the interests of traffic, cyclist and pedestrian safety.

10.(a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Clearly identified car parking space shall be assigned permanently

for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, unless the subject of a separate grant of planning permission.

(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

10. A minimum of 470 no. bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

11. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be

prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

12. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

13. The construction of the proposed development shall comply with TII's Code of Engineering Practice for works, on, near, or adjacent the Luas Light Rail system.

**Reason:** In the interest of public safety and to prevent obstruction or interference with the operation of the LUAS system.

14. Drainage arrangements including the attenuation and 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 surface water management.

15. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.

(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

**Reason:** In the interest of public health.

16. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement

**Reason:** in the interest of public health.

17. 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. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

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

19.18.

18. Clearance of vegetation from the development site shall only be carried out in the period September to February inclusive (i.e outside the main bird breeding season).

**Reason:** To protect from destruction the nests, eggs and nestlings of protected species.

19.

(a) The communal open spaces, including hard and soft landscaping, 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

(b) 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.

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

21. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and



Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

23. Site development and building works shall be carried out only between 0800 to 1900 hours 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.

24. 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:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets;

(b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(d) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; (

(e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

(f) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the Planning Authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the Planning Authority.

**Reason:** In the interest of amenities, public health and safety and to ensure that construction works do not affect the safety.

25. Prior to the commencement of any works on site the applicant, owner or developer shall lodge with the Planning Authority for their written agreement proposals for the erection and operation of cranes proposed on site which shall incorporate the requirements of the operators of Casement Aerodrome.

**Reason:** In the interest of public safety.

26. a) The applicant/developer shall employ a qualified Archaeologist, licensed to carry out Archaeological Monitoring of all sub-surface works carried out within the proposed development site. This will include the archaeological monitoring of the removal of topsoil, the excavation of trenches for foundations, services, access roadway, etc. associated with the proposed development.

b) The archaeologist shall prepare and submit a report, describing the result of the Archaeological Monitoring, to the Local Authority and the Development Application Unit of the Department of Environment, Heritage and Local Government within six weeks following completion of Archaeological Monitoring.

**Reason:** To facilitate the recording and protection of any items of archaeological significance that the site may possess.

27. Prior to commencement of development, the developer 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, and of the housing strategy in the development plan of the area.

28. 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.

29. 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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Dáire McDevitt  
Planning Inspector

10<sup>th</sup> December 2020

## **Appendix 1**

Documentation submitted with the application included inter alia the following:

- Completed Application Form with Appendices.
- Fee.
- Site Notice & Newspaper Notice.
- Cover Letter.
- Statement of Consistency.
- Material Contravention Statement.
- Architectural Design Statement.
- Materials & Finishes Report.
- Housing Quality Assessment.
- Schedule of Accommodation.
- Flood Risk Assessment.
- Engineering Services Report.
- Construction Management Plan.
- Construction and Demolition Waste Management Plan.
- Lighting details.
- Transport Assessment Report.
- Landscape Architects Report.
- CGI Booklet.
- Social Infrastructure Audit.
- Architectural Heritage Assessment.

- Archaeological Assessment.
- Screening Report for Appropriate Assessment.
- Environmental Impact Assessment Screening.
- Operational Waste Management Plan.
- Sustainability Report.
- Utility Briefing Note.
- Building Lifecycle Report.
- Daylight and Sunlight Assessment Report.
- External Lighting Design Information.
- Architectural Drawing Pack.
- Engineering Drawing Pack.
- Landscape Drawing Pack.

## **Appendix 2**

List of Submissions:

1. Clapton (Ireland) Limited
2. Mr. Raymond Charters

Prescribed Bodies:

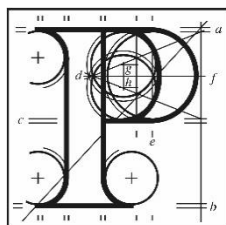
3. Irish Water.
4. Irish Aviation Authority.
5. Department of Defence.
6. Transport Infrastructure Ireland.
7. Minister for Culture, Heritage  
and The Gaeltacht.

and

8. Inland Fisheries Ireland.



## Appendix 3: EIA Screening Form



An  
Bord  
Pleanála

### EIA - Screening Determination for Strategic Housing Development Applications

#### A. CASE DETAILS

An Bord Pleanála Case Reference	ABP 308088-20
Development Summary	Construction of 224 no. apartments in 4 no. blocks and associated site works.
	Yes / No / N/A
1. Has an AA screening report or NIS been submitted?	Yes An EIA Screening Report and a Stage 1 AA Screening Report was submitted with the application
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No

**3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA**

**Yes**

SEA undertaken in respect of the South Dublin County Development Plan .... and Fortunestown Local Area Plan... (extended to 2022))

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) <b>Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</b>	<b>Is this likely to result in significant effects on the environment?</b> <b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			
<b>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</b>	<b>No</b>	The development comprises the construction of residential units on lands zoned RES N and is in keeping with the residential development (existing and permitted) in the vicinity.	<b>No</b>



<p><b>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</b></p>	<p><b>Yes</b></p>	<p>The proposal includes construction of a residential development (apartments) which is not considered to be out of character with the pattern of development in the surrounding town.</p>	<p>No</p>
<p><b>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</b></p>	<p><b>Yes</b></p>	<p>Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.</p>	<p>No</p>
<p><b>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p><b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b></p>	<p><b>Yes</b></p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
<p><b>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</b></p>	<p><b>No</b></p>	<p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. There is no direct connection from the site to waters. The operational development will connect to mains services. Surface water drainage will be separate to foul services.</p>	<p>No</p>

<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p><b>No</b></p>
<p><b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b></p>	<p><b>No</b></p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction, Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p><b>No</b></p>
<p><b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b></p>	<p><b>No</b></p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p><b>No</b></p>

<b>1.10 Will the project affect the social environment (population, employment)</b>	<b>Yes</b>	Redevelopment of this site as proposed will result in an increase in residential units of 224 no. units.	<b>No</b>
<b>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</b>	<b>No</b>	Stand alone development, with developments in the immediately surrounding area permitted or under construction.	<b>No</b>
<b>2. Location of proposed development</b>			
<b>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</b> <ol style="list-style-type: none"> <li>1. European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> </ol>	<b>No</b>	No conservation sites located on the site. An AA Screening Assessment accompanied the application which concluded no significant adverse impact on any European Sites.	<b>No</b>

<p><b>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</b></p>			
<p><b>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</b></p>	<p><b>No</b></p>	<p>No such uses on the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p><b>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</b></p>	<p><b>No</b></p>	<p>There is partially located in the zone of archaeological potential (DU 021-034) a protected structure (Saggart House) the west of the site on the opposite side of Garter's Lane. The design and layout of the scheme considers all these built environment issues and mitigation measures are in place to address concerns.</p>	<p>No</p>
<p><b>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</b></p>	<p><b>No</b></p>	<p>There are no areas in the immediate vicinity which contain important resources.</p>	<p>No</p>

<p><b>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</b></p>	<p><b>No</b></p>	<p>There are no connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.</p>	<p>No</p>
<p><b>2.6 Is the location susceptible to subsidence, landslides or erosion?</b></p>	<p><b>No</b></p>	<p>There is no evidence in the submitted documentation that the lands are susceptible to lands slides or erosion and the topography of the area is flat.</p>	<p>No</p>
<p><b>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</b></p>	<p><b>No</b></p>	<p>The site is served by a local urban road network which accesses onto the N7.</p>	<p>No</p>
<p><b>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</b></p>	<p><b>Yes</b></p>	<p>There is no existing sensitive land uses or substantial community uses which could be affected by the project.</p>	<p>No</p>

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?</b>	<b>No</b>	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	<b>No</b>
<b>3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?</b>	<b>No</b>	No trans boundary considerations arise	<b>No</b>
<b>3.3 Are there any other relevant considerations?</b>	<b>No</b>		<b>No</b>

<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	<b>Yes</b>	EIAR Not Required	
<b>Real likelihood of significant effects on the environment.</b>	<b>No</b>		

## D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands zoned to protect and provide for residential communities in accordance with approved area plans in the South Dublin County Development Plan 2016-2022 and the results of the Strategic Environmental Assessment of the plan;
- (c) the location of the site on lands identified within Framework 5 - Saggart-Cooldown Commons Neighbourhood in the Fortunestown Local Area Plan 2012 (extended to May 2020)
- (d) The existing use on the site and pattern of development in surrounding area;
- (e) The planning history relating to the site
- (f) The availability of mains water and wastewater services to serve the proposed development,
- (g) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (h) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction & Demolition Waste Management Plan (CDWMP).

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

Inspector: \_\_\_\_\_ **Daire McDevitt**

**Date: 10/12/2020**