



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-308135-20**

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#### **Strategic Housing Development**

257 no. residential units (163 no. houses, 94 no. apartments), childcare facility and associated site works.

#### **Location**

Lands at Dublin, Haggardstown, Dundalk, Co. Louth.

#### **Planning Authority**

Louth County Council

#### **Applicant**

PJ and EJ Doherty Limited

#### **Prescribed Bodies**

1. Department of Culture, Heritage and the Gaeltacht
2. Inland Fisheries Ireland
3. Irish Water
4. Transport Infrastructure Ireland

**Observer(s)**

1. John Daly
2. Niall Muarray
3. Sean and Anne Brosnan
4. Subhi Alwan
5. Wayne and Gillian Callan

**Date of Site Inspection**

5<sup>th</sup> November 2020

**Inspector**

Elaine Power

## 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 site is located approx. 5km south of Dundalk town centre and approx. 1.5km west of Blackrock village. It is bound to the north by Earlsfort residential estate, to the south by Haggardstown Stream and detached houses fronting onto Cocklehill Road (R172), to the east by a mature residential estate 'Ard Na Mara' and to the west by the Dublin Road (R132). On the opposite side of the Dublin Road are a number of detached dwellings and agricultural fields.
- 2.2. The site has a stated area of 7.6ha. It previously formed part of a larger landholding (14.2ha) incorporating lands to the north of the site. These lands currently accommodate the Earlsfort residential estate. Some of the subject site has been cleared and sections of roadway have been partly completed, primarily from the existing site entrances to the site compound. The compound on site comprises of a large shed, machinery and other stored materials. Construction machinery and materials were noted at the northern site boundary, during a site visit on 5<sup>th</sup> November 2020. The site is not an active construction site. Some unfinished houses were also noted within the Earlsfort residential estate, located outside of the current red line boundary.
- 2.3. The site is generally flat with a low lying portion of land located in the south east corner of the site. There is a soil heap, located in the southern portion of the site and a stone heap located in the eastern portion of the site. The northern and western site boundaries comprise a construction fence with 1 no. vehicular access from the Dublin Road, and 2 no. accesses from the adjoining Earlsfort. The eastern boundary comprises the rear boundary walls of houses in Ard Na Mara residential estate. The southern boundary is open, adjoining Haggardstown Stream.

### 3.0 Proposed Strategic Housing Development

3.1. The proposed development comprises 257 no. residential units, comprising 163 no. houses and 94 no. apartment / duplex units and a creche (309 sqm). The proposed scheme provides for the following: -

Building Type	Number	Percentage
Detached	12	5%
Semi-detached	110	43%
Terrace	41	16%
Apartment / duplex	94	37%

Unit Type	Number	Percentage
1-bed units	19	7.4%
2-bed units	95	37%
3-bed units	118	45.9%
4-bed units	25	9.7%

The development would be constructed in 3 no. phases. Phase 1 is generally located in the northern and north western portion of the site. It comprises 93 no. residential units and a creche, 3 no. accesses from Earlsfort estate to the north and the main vehicular access to from the Dublin Road, to the west. Phase 2 is generally located in the eastern and south eastern portion of the site and comprises 84 no. residential units. Phase 3 is located in the south western portion of the site and comprises 80 no. residential units. Access to phases 2 and 3 is proposed from the internal road network.

The design of the scheme is traditional and reflects the adjoining Earlsfort residential development. The scheme is arranged around a central area which includes open space, the single storey creche, a 3-storey apartment block and 2 no. 3-storey duplex blocks. A variety and mix of external finishes have been applied to the units,

including brick (red, yellow, tan), dashing and feature render / Ashlar Bands. The finishes for the apartments and duplex units also include a brick cladding

The scheme includes a variety of house types. House types 1, 1a, 1b, 2, 2a, 2b and the terrace blocks (Terrace Block 1-6) are 2-storey with a dormer windows on the front elevation. These units' range in height from 8.6m to 9.3m. The plans, sections and elevations show alternative layouts for these units with additional bedrooms at attic / second floor level. House types 3, 4 and 5 are 2-storey ranging in height from 8.4m to 8.9m. The houses range in size from 80sqm to 173sqm. House types are located throughout the scheme.

The scheme includes 9 no. duplex blocks containing 80 no. units. The duplex units are 3-storeys, ranging in height from 11.9m to 13.5m. They range in size from 52sqm to 126sqm. 6 no. duplex blocks are provided in the south western portion of the site, with 2 no. blocks at the western boundary with Dublin Road and 4 no. blocks along the southern boundary with Haggardstown Stream. As noted above, 2 no. duplex blocks are located in the centre of the scheme and 1 no. duplex block is provided at an entrance from Earlsfort. This block provides a frontage onto an existing area of public open space.

The development includes 2 no. apartment blocks. Apartment block 1 is 3-storeys in height and has a feature roof turret which results in a maximum height of 17.9m. It is located in the centre of the site opposite the 2 no. duplex blocks. Apartment block 2 is 5-storeys in height, it has a feature roof turret which results in a maximum height of 23m. It is located in the south west corner of the site at the boundary with the Dublin Road and Haggardstown Stream.

The scheme includes 5 no. areas of open space with a total area of 9,269sqm which accounts for 12.11% of the site area.

The development includes 446 no. car parking spaces, the majority of the houses have front driveways with 2 no. off-street car parking spaces provided per house. Communal on-street spaces are proposed to serve the duplex units, apartments and a small number of houses. The scheme includes 108 no. bicycle parking spaces.

The main vehicular access is proposed via the Dublin Road with 3 no. additional vehicular accesses from Earlsfort via the existing internal estate roads to the north. It is proposed to upgrade the Dublin Road to facilitate the vehicular access, including

the provision of a turning lane into the scheme and a cycle lane along the western site boundary with the Dublin Road.

The works also include the provision of 2 no. ESB substations, landscaping, boundary treatments, public lighting, attenuation systems and all ancillary site works.

3.2. The application included the following:

- Planning Report and Statement of Consistency
- Material Contravention Statement
- Statement of Response
- Design Statement
- Statement on Housing Mix
- Housing Quality Assessment
- Schools and Childcare Assessment
- Building Lifecycle Report
- Engineering Services Report
- Flood Risk assessment
- Traffic and Transport Assessment
- Traffic and Transport Report
- Road Safety Audit
- DMURS Design Audit
- Construction Management Plan
- Archaeological Assessments
- Appropriate Assessments
- Appropriate Assessment Screening
- Natura Impact Statement
- EIA Screening Statement
- Ecology Report
- Utilities and Energy Statement
- Landscape Report and Masterplan

- Landscaping Proposals
- Public Lighting Design
- Part V proposals
- Photomontages and CGI's

## 4.0 Planning History

### ***Subject Site***

***PL15.131275, (Reg. Ref. 99/1053):*** Permission was granted in 2004 for the construction of 363 no. houses, a community building including a convenience store on a larger site (14.2ha) incorporating the subject site.

### ***Surrounding Sites***

***Strategic Housing Development ABP 304782-19:*** Permission was granted in 2019 for 483 no. residential units and a creche approx. 1.6km north east of the subject site.

***Strategic Housing Development ABP-303253:*** Permission was granted in 2019 for 166 no. residential units and a creche on a site located approx. 900m north east of the subject site.

***ABP 233961, Reg. Ref. 08/1309:*** Permission was granted in 2010 for the construction of 257 no. residential units on a site located on the opposite side of the Dublin Road.

## 5.0 Section 5 Pre-Application Consultation

5.1. A Section 5 pre-application virtual consultation took place on the 13<sup>th</sup> March 2020 in respect of a development of 233 no. housing units, a creche and a community building. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. The main topics discussed at the meeting were –

- Interface with the Dublin Road
- Development Strategy for the site (density; height; range and type of housing; phasing; palette of materials; pedestrian connectivity and permeability; open space)

- Surface Water
- Flooding
- Traffic and Transport
- Any Other Matters

Copies of the record of the meeting and the inspector's report are on this file.

5.2. In the Notice of Pre-Application Consultation Opinion dated 23<sup>rd</sup> March 2020 (ABP-306557-20) An Bord Pleanála stated that it was of the opinion that the documents submitted required further consideration and amendment in order to constitute a reasonable basis for an application with regard to the following: -

1. **Design and layout:** with respect to the provision of a minimum density of 35 units per ha, increased height strategy and orientation and layout of the dwellings in relation to the 12 criteria set out in the Urban Design Manual. In addition, matters of configuration, layout and architectural approach with particular emphasis on the Dublin Road should be given further consideration.
2. **Open space and permeability:** appropriate play facilities, landscaped areas, boundary treatments and pedestrian / cycleways throughout the site, clearly delineating public, semi-private and private spaces. This may include the provision of a segregated pedestrian / cycle network along the Dublin Road; integration of an appropriate road's hierarchy in conjunction with the prioritisation of pedestrian activity; treatment of cul-de-sacs and residual open space area.

5.3. The opinion also stated that the following specific information should be submitted with any application for permission.

1. Design of the surface water management system
2. An updated Flood Risk Assessment to account for all available flood maps
3. Details of all materials proposed for buildings, open spaces, paved areas, boundary and retaining walls and a life cycle report for the apartments
4. Details of Part V provision



5. Details confirming compliance with Irish Waters requirements and all works required for the wastewater connection
6. An integrated strategy for the delivery of the development, including but not restricted to any ecological assessments, construction management plan, surface water proposals and Flood Risk Assessment.

5.4. A list of authorities that should be notified in the event of making an application were also advised to the applicant and included:

1. Transport Infrastructure Ireland
2. Irish Water
3. Louth County Childcare Committee
4. Minister for Culture, Heritage and the Gaeltacht
5. Inland Fisheries Ireland

#### 5.5. ***Applicant's Statement***

A statement of response to the Pre-Application Consultation Opinion was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016. The applicant addressed the items that required consideration and specific information to be submitted with the application.

The Items that required further consideration are summarised below: -

#### ***Design and Layout***

The density has been revised from 24 units p/ha to 35.3 units p/ha. This density has been calculated by excluding areas of open spaces that serve the wider area and landscaping areas. Having regard to the pattern of development in the adjoining residential estates this density is considered appropriate. A detailed breakdown of the density of surrounding estates has been included. It is noted that the density ranges from 12.42 units p/ha to 32 units p/ha.

The unit mix, building height and site layout have been significantly amended including the following: -

- Revised boundary treatment and building orientation along the Dublin Road
- Higher density
- Increased building heights
- Reduction in cul-de-sacs
- Increased qualitative provision of open space
- Improved permeability
- Removal of internal bus corridor
- DMURS compliance road layout
- Provision of a cycle track along the Dublin Road
- Dual frontage units along the Dublin Road
- Dual aspect duplex units.

The revised layout has been assessed by the applicant with regard to the 12 criteria set out in the Urban Design Manual SPPR3 criteria for increased building height. It is concluded that the scheme conforms to the detailed national guidance with regard to layout, design and density as it makes effective use of the land, makes a positive contribution to its surroundings, has a sense of identity and place, provides for effective connectivity and features a design which is guided by the principles set out under the Urban Design Manual.

### ***Open Space and Permeability***

The amended site layout provides for improved permeability through appropriate block sizes and a looped system where most streets lead to other streets. To the greatest extent cul-de-sacs have been removed. The revised layout is accessed by the applicant with regard to the 4 core design principles of DMURS.

The amended site layout also incorporates open spaces, play facilities, boundary treatments and pedestrian and cyclist movements. The open space provision has been revised and a larger central area of open space has been provided. All areas of open

space benefit from passive surveillance. A dedicated cycle track is provided along the site boundary with the Dublin Road.

The applicant addressed items 1-6 of the specific information to be submitted with the application. Items of note are outlined below: -

***Item 1***

A SUDS Design and Engineering Services Report has been submitted. It is also noted that an underground attenuation storage system is proposed to retain storm water to greenfield run-off rates. The drainage assessment and engineering particulars have also been addressed in the Flood Risk Assessment.

***Item 2***

A site-specific Flood Risk Assessment has been submitted with the application.

***Item 3***

Details of all materials for buildings, open spaces, paved areas, boundary and retaining walls have been provided. A building life cycle report has also been submitted with the application.

***Item 4***

A Part V allocation plan has been submitted with the application. The applicant has entered into discussions with the Housing Department of Louth County Council.

***Item 5***

Details confirming Irish Waters requirements has been submitted.

***Item 6***

The applicant has confirmed that the scheme incorporates a co-ordinated approach for the development of the site. It is noted that the following documents have been submitted, a Construction Management Plan, A Phasing Plan, a Flood Risk

Assessment, an Engineering Services Report, an Ecological Assessment and a Natura Impact Statement.

## 6.0 Relevant Planning Policy

### 6.1. *Dundalk and Environs Development Plan 2009-2015 (as extended)*

The subject site is located on lands zoned 'Residential 1' with the associated land use objective to protect and improve existing residential amenities and to provide for infill and new residential developments'

The Core Strategy variation no.1 designated the subject lands as Phase 2 residential development. It envisaged that Phase 1 lands would accommodate housing during the lifetime of the Plan i.e. up until 2015, and following this, Phase 2 and 3 would subsequently be developed. **Policy CS2** seeks:

*To apply the phasing of new residential development as per the phasing strategy set out, whereby residential development, other than infill, brownfield or mixed use development shall only be permitted in the identified area within Phase 1. Only on completion of the development of 75% of these lands shall subsequent phasing be considered for additional residential development.*

**Policy HC 11:** *Encourage the use of homezone principles in the design of residential layouts, particularly where higher density developments are proposed.*

**Policy HC 18:** *Ensure proposed development complies with the provisions of 'Sustainable Residential Development in Urban Areas 2008' and other DoEHLG guidelines.*

**Policy HC 20:** *Require that the quantitative standard of a minimum of 14% of the gross site area is provided as public open space in all new residential developments and that the qualitative requirements described above are adhered to.*

Ensure that no area of public open space is less than 200 square metres in area and no boundary is less than 10 metres in length.

Section 6.7 of the Plan sets out Development Standards. Policies HC18, HC 19, HC 25, HC 28 and Appendix 2 – Urban Design Guidance are considered relevant.

## 6.2. **Louth County Development Plan 2015-2021**

Chapter 1 of the Plan states that the Council will prepare Local Area Plans for areas including Dundalk & Environs. Chapter 2 of the Development Plan refers to the Core Strategy & Settlement Strategy and Chapter 4 refers to Residential and Community Facilities.

Dundalk, as well as Drogheda, is identified as a Large Growth Town I in the Settlement Hierarchy. Table 2.4 indicates that Dundalk & Environs is expected to have a population growth of 4,322 persons or 1,600 equivalent residential units by 2021. Table 2.5 restates that Dundalk is to have a household allocation to 2021 of 4,322 persons and of importance for the subject proposal a Housing Land requirement of 57ha up to 2021. Section 2.10 of the Plan refers to Phasing stating that phasing will be provided for in the respective Core Strategies as part of the preparation of local area plans.

**Policy CS1:** *To promote the household and population growth in the County in accordance with Table 2.5 and 2.6 of the Core Strategy.*

**Policy SS1:** *To maintain the settlement hierarchy within the County and to encourage residential development within each settlement that is commensurate with its position in the hierarchy and the availability of public services and facilities.*

**RES 18:** *To apply density standards in respect of the County's towns and villages as set out in Table 4.3 and to carry out further refinement where necessary as part of the review of the local area plans.*

**RES 19:** *To require that residential buildings shall not exceed 3 storeys in height, including roof space development except in exceptional circumstances where the planning authority considers that the site can adequately accommodate 4 storeys (including roof space development) and where provision for higher buildings is provided for in any local area plan.*

Section 2.16.1 refers specifically to Dundalk. It states "It is projected that it will grow to 46,622 during the lifetime of this Development Plan, to a level where it can support a

wide range of services and facilities that will provide higher levels of economic activity, growth and development”.

Section 2.16.4 refers to the preparation of Local Area Plans for Dundalk and Drogheda. It notes that the statutory development plan for Dundalk is the Dundalk & Environs Plan 2009 – 2015. It further states that the Louth County Development Plan 2015 – 2021 will be an over-arching Development Plan for the entire county including Dundalk. It is stated that the Dundalk plan will be reviewed and ultimately replaced by Local Area Plans, which will be subsets of, and will be consistent with, the Louth County Development Plan 2015 – 2021.

The following policies are also considered relevant RES 6, RES 10, RES 12, RES 13, RES 14, RES 15, RES 16, RES 20, RES 21, RES 22, RES 23, RES 24, RES 26, RES 28, RES 29, RES 34, RES 35, RES 37, RES 38, RES 43, RES 44.

### **6.3. *Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 - 2031***

Dundalk is identified as a Regionally Important Larger Town / Regional Growth Centre. The aim of these centres is to support significant population and economic growth to drive effective regional development. The vision for Dundalk, as set out in Chapter 4, is to reach a target population of 50,000 by 2031.

Dundalk is located on the Eastern Corridor (Dublin – Belfast). The growth enablers for this corridor include compact and focused growth in Dundalk, to grow to a city scale.

### **6.4. *National Planning Framework (2018)***

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include

- National Policy Objective 4: 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.

- National Policy Objective 7: ... Strengthening Irelands overall urban structure, particularly... cross border networks focused on... Drogheda – Dundalk – Newry on the Dublin – Belfast Corridor.

Encouraging population growth in strong employment and service centres of all sizes, supported by employment 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.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.
- National Policy Objective 57: Enhance water quality and resource management by ... ensuring 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...

#### 6.5. ***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 Section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2018

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area, 2009
- Urban Development and Building Heights Guidelines, 2018
- Urban Design Manual, A Best Practice, 2009
- Design Manual for Urban Roads and Streets, 2013
- The Planning System and Flood Risk Management Guidelines, 2008

## 6.6. **Material Contravention Statement**

The applicant submitted a Material Contravention Statement. The statement provides a justification for the material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) in relation to Policy CS2 and the provision of open space. The statement is summarised below: -

### **Core Strategy and Housing Requirements**

The report notes policy CS1 of the core strategy of the Dundalk and Environs Development Plan (DEDP) which states: -

*‘To promote sustainable development on brownfield / infill sites by excluding such sites from the requirement to comply with the phasing strategy throughout the plan area’.*

The applicant has stated that given the brownfield and infill nature of the site, including the existing shed on site, site clearance and engineering works carried out, the development is consistent with phasing objectives of the core strategy.

Policy CS2 states *‘to apply the phasing of new residential development as per the phasing strategy set out, whereby residential development, other than infill, brownfield or mixed-use development shall only be permitted in the identified area within Phase 1. Only on completion of the development of 75% of these lands shall subsequent phasing be considered for additional residential development’*

The subject site is located on Phase 2 lands. The applicants statement notes that there are conflicting objectives in the Dundalk and Environs Development Plan (DEDP) and the Louth County Development Plan and the Regional Spatial and Economic Strategy (RSES) with regard to population growth in Dundalk.



The DEDP designates three phases for residential development, (the subject site is Phase 2). Phase 1 provides for 1,750 no. addition units within the serviced area of Mount Avenue / Castletown up to 2016.

The development plan states an additional 51 ha of land is required in Dundalk for residential development up to 2016 and a further 57 ha up to 2021 and that a LAP would address the phasing of residential lands in Dundalk. However, no LAP has been prepared and the DEDP has not been varied in response to the core strategy of the development plan.

The RSES designates Dundalk as a Regional Growth Centre and directs significant population and economic growth towards the town. It is envisioned that Dundalk would grow by 50,000 by 2031.

It is concluded that Policy CS2 of the DEDP severely restricts residential development in Dundalk and the core strategy is not consistent with and prohibits the implementation of the strategies, policies and objectives of national, regional and local planning objectives.

### ***Open Space***

The Sustainable Residential Development guidelines require that public open space should generally be provided at a minimum rate of 10% of the site area on large infill sites or brownfield sites. The DEDP states that a minimum of 14% of the total site area shall be provided as public open space within new residential developments. Open space provision is 12.11% of the scheme. Given the wider national policy context the proposed provision of open space is considered appropriate.

## **7.0 Third Party Submissions**

5 no. third party submissions were received. The planning history of the site is noted and there is no objection in principle to the development of the site for residential use. The concerns raised are summarised below: -

- The applicant incorrectly refers to this site as an infill and brownfield site. It is noted that part of the site was used as a construction compound, however, the site is a greenfield site.
- The proposed development does not respect the local context. The houses on Seafield Road and the Ard Na Mara bungalows are single storey. There are no single storey units proposed in the development.
- There are unfinished 3-storey units within the Earlsfort site.
- The proposed density is not in keeping with the character of the area.
- A minimum of 14% of the site is required as open space.
- The proposed dwellings are too close to the boundary with the existing houses in Ard Na Mara residential estate and would negatively impact on the residential amenities in terms of overlooking.
- The level differences between the proposed site and the existing single storey houses in Ard Na Mara residential estate is not accurately indicated on the drawings. The finished height of the proposed houses would have a negative impact on the existing residential amenities of dwellings in Ard Na Mara in terms of overbearing and overshadowing.
- The proposed units along the eastern boundary should be omitted or modified to ensure they do not negatively impact on the existing residential amenities.
- There is an existing ditch / gully at the eastern boundary of the site, which serves as a surface water drain. It is unclear how the developer intends to facilitate this drain in the proposed development.
- There are inaccuracies in the information submitted. The previous application on the site noted the levels in the south eastern portion of the site as between 2.4mOD and 2.7mOD. This area was marshy and incorporated an open water course. Works were carried out in 2019 to raise the levels in the south east portion of the site to between 4.2mOD and 4.9mOD. This was carried out without planning permission. This cannot be relied upon to stated that all the development is outside of a flood risk zone. Serious consideration should be given to the provision of an area of open space in the south east portion of the site.

- There has been a change in the development team which has resulted in an incomplete consideration of the flood risk, which is based merely on the currently levels of the site. The concerns raised by the planning authority and at the pre-application stage have not been addressed.
- The proposed works would result in flooding of the adjoining Ard Na Mara residential estate, which is low lying.

## 8.0 Planning Authority Submission

The Chief Executive's Report, in accordance with the requirements of Section 8(5)(a) of the Act 2016, was received by An Bord Pleanála on the 3<sup>rd</sup> November 2020. The report includes a summary of the proposed development, planning history of the site, third-party submissions, and the views of the Dundalk Municipal Members at a meeting held on the 6<sup>th</sup> October 2020. The elected members generally welcomed the development of the site. The main concerns, of the elected members related to the capacity of existing physical and social infrastructure to accommodate the proposed development, increased traffic congestion, the lack of permeability within and through the site, potential for anti-social behaviour and no provision for elderly housing. Clarification was also sought by the representatives regarding the SHD process. A report from the Infrastructure Directorate has also been provided.

- 8.1. The key planning considerations of the Chief Executive's report are summarised below.

**Principle:** The proposed development is considered to be in accordance with the provisions of the development plan and it acceptable in principle.

**Design and Layout:** The layout has significantly improved since the pre-application discussions. The revised layout addresses the Dublin Road, which would provide an active frontage. The connectivity throughout the site has also been improved by the removal of cul-de-sacs and provision of linkages to Ard Na Mara and Earlsfort. The planning authority supports the connectivity.

**Public Realm and Open Space:** The proposed landscaping significantly enhances the proposed development and includes both active and passive open space. The

layout provides for a hierarchy of spaces and home zones. It is considered that the open space provides a distinctive sense of place and that the new civic space at the frontage of the creche and community building would provide a focal point within the development.

Notwithstanding the high quality of the space, it is noted that it is not in accordance with Policy HC20 which requires a minimum of 14% of the gross site area be provided as public open space. The scheme provides for 12.11%. The site is not considered to be a brownfield site in the context of calculation of open space.

It is important that open space is delivered in a timely manner and not left to the final phase of the development. In this regard the playground and civic amenity space should be completed prior to the provision of more than 100 housing units.

**Density:** Taking account of Dundalk as a regional growth centre and to ensure efficiency in land usage a density of 35 units per ha is acceptable and not considered to be particularly high having regard to the location.

**Housing Mix:** It is considered that the scheme provides a unit mix which is reflective of the demographic structure of the area and provides a range of units to cater for a variety of household types.

**Height:** The proposed height (3-5 storeys) is supported by the planning authority. It is also considered that an increase in height is important when viewed from the Dublin Road to provide a strong urban environment on the approach road to Dundalk.

**Residential Amenity:** Having regard to the separation distances and with appropriate boundary treatments it is considered that the amenity of the existing residents is protected.

**Part V:** It is noted that the applicant has engaged with the Housing Department of Louth County Council with regard to the provision of units to meet with Part V requirements.

**Infrastructure:** It is noted that the surrounding road network experiences traffic congestion at peak times.

Conditions to be attached to ensure all works to the public road are carried out by the developer in agreement with the county council.

**Development Contributions:** It is recommended that standard contribution conditions be attached.

**Habitats / Environment:** In the assessment of the impact on the designated sites regard should be had to the potential impact of houses 42-60 and the duplex units 89-96 on drawing no. A1916-01 Rev B, which are located within an area identified as a flood area. There is concern that the building in this location may cause displacement of surface water elsewhere which could potentially impact on the Natura sites.

**Flood Risk:** The Neagh Bann Flood Risk Management Report 2018 has identified the south east of the site as an area where hard flood protection measures are to be provided. This is currently progressing to detailed design and it is envisioned would be implemented in 10 years, as per the governments flood relief scheme investment program. The planning authority are of the opinion that development of houses 42-60 and the duplex units 89-96 on drawing no. A1916-01 Rev B are premature at this point as these units and associated areas of open space are located in an area identified in the flood study report that shall be provided with flood protection measures.

It is recommended that this area be seeded and maintained as public open space. A more appropriate layout of the units could be achieved, subject to a future planning permission.

**EIAR:** the development is of a class and is considered to be sub-threshold. It is considered that the proposal would not likely give rise to significant effects on the environment and as such does not require an EIAR. However, given the concerns regarding flood risk, this issue does require further consideration to ensure an adequate design solution to the concerns raised.

The planning authority recommend that permission be granted and have listed 22 no. conditions. The most significant is condition no. 2 which requires that dwellings 42 - 60 and duplexes 89 – 96 be omitted, and that this area be seeded and maintained as public open space, until such time as a further permission is secured.

## 9.0 Prescribed Bodies

9.1. The list of prescribed bodies, which the applicant was required to notify prior to making the SHD application was issued with the Section 6(7) Opinion and included the following: -

- Transport Infrastructure Ireland
- Irish Water
- Louth County Childcare Committee
- Minister for Culture, Heritage and the Gaeltacht
- Inland Fisheries Ireland

The applicant notified the relevant prescribed bodies listed in the Board's Section 6(7) opinion. The letters were sent on the 9<sup>th</sup> September 2020. A summary of the comments received are summarised below:

***Transport Infrastructure Ireland:*** requests that regard is had to Chapter 3 of the Spatial Planning and National Roads Guidelines in the assessment and determination of the subject application.

***Irish Water:*** Notes that a confirmation of feasibility was issued to the applicant for connections to the public network.

In respect of wastewater the Dundalk Drainage Area Plan (DAP) is progressing and will identify the drainage upgrades for the wider area. In the interim Irish Water has undertaken optimisation and upgrade works at the Blackrock Wastewater Plant and Cocklehill Pump Station. These works are nearing completion, with an expected ended date at the end of 2020.

In respect of water it is noted that a connection is feasibility without any upgrade.

***Minister for Culture, Heritage and the Gaeltacht:*** The following is noted: -

***Archaeology:*** Having regard to the significant findings in the adjacent site to the north, it is possible that unidentified archaeological features and deposits may survive. It is,

therefore, recommended that an Archaeological Impact Assessment should be prepared.

*Nature Conservation:* If the mitigation measures set out in the NIS and Ecological Impact Assessment to avoid discharge of contaminated surface waters into the Haggardstown Stream during construction and operational phases are implemented in full, the potential for negative impacts on water quality would be eliminated and associated adverse impacts on the Dundalk Bay SAC and Dundalk SPA would not arise.

*Inland Fisheries Ireland:* Noted that the River Fane contains valuable fisheries habitat and supports stocks of salmon, brown trout, European eel, and lamprey species among other species.

*Wastewater:* It is unclear which treatment plant the wastewater from the proposed development would be discharged. It is important to ensure there is sufficient capacity to adequately treat the wastewater arising from the development. The nearest treatment plant is at Blackrock, which discharges to the Fane Estuary. The recent Annual Environmental Report (2019) states the remaining capacity at this plant is 359 P.E. This indicates that there is insufficient capacity to treat and receive wastewater from the proposed development.

*Surface Water:* It is important to ensure that surface water from the site is treated in a sustainable manner to minimise the impact on water quality and prevent habitat degradation at outfalls to the nearby watercourse, which is a tributary of the River Fane.

No comments were received from Louth County Childcare Committee

## 10.0 **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 National Planning Framework, the Regional Economic and Spatial Strategy and all relevant Section 28 guidelines and policy context of the

statutory development plan and local plan and has full regard to the chief executives report, 3<sup>rd</sup> party observations and submission by prescribed bodies. The assessment considers and addresses the following issues: -

- Principle of Development
- Design and Layout
- Density
- Height
- Residential Amenity
- Open Space
- Flood Risk
- Water Services
- Transportation
- Archaeology
- Part V
- Material Contravention

#### 10.1. ***Principle of Development***

- 10.1.1. The subject site is located on lands zoned 'Residential 1' with the associated land use objective '*to protect and improve existing residential amenities and to provide for infill and new residential developments.*' Therefore, the proposed development is acceptable in principle.
- 10.1.2. The Core Strategy (variation no.1) of the Dundalk and Environs Development Plan 2009-2015 (as extended) designated the subject lands as Phase 2 residential development. It envisaged that Phase 1 lands would accommodate housing during the lifetime of the Plan, in this regard up until 2015, and following this, Phase 2 and 3 lands would subsequently be developed. This is supported by Policy CS2 which seeks to ensure that residential development, other than infill, brownfield or mixed-use development, shall only be permitted within Phase 1. The policy further notes that only



upon completion of the development of 75% of these lands shall subsequent phasing be considered for additional residential development.

- 10.1.3. The applicant's Material Contravention Statement states that the proposed development is on a brownfield and infill site and, therefore, is in accordance with Policy CS1 to promote sustainable development on brownfield / infill sites by excluding such sites from the requirement to comply with the phasing strategy. The applicant has stated that the site is a brownfield and infill site due to the existing shed on-site, site-clearance and engineering works carried out to date, including sub-surface infrastructural works. The Material Contravention Statement states that notwithstanding the brownfield nature of the site there are inconsistencies between the Dundalk and Environs Development Plan and the Louth County Development Plan, RSES and the NPF, which allocate additional population growth for Dundalk. Policy CS2 is preventing the release of necessary lands to meet the housing land and population growth projections for Dundalk.
- 10.1.4. The planning authority state that the site is located on Phase 2 lands and as such is not designated as priority lands for residential development. It is acknowledged that the Dundalk and Environs Development Plan is an outdated policy document and that the Draft Louth County Development Plan 2021 – 2027 is on public display, which takes account of the NPR and the RSES and prescribes a targeted population growth of 50,000 by 2031. The planning authority further state that while the proposed development would be a material contravention of the plan, the development of the subject site complies with the NPF and RSES. The issue of material contravention is further addressed in section 10.12 below.
- 10.1.5. As noted above the applicant has stated that the site is a brownfield site and, therefore, is in accordance with Policy CS1. Brownfield lands, are defined in the Sustainable Residential Development in Urban Areas guidelines as any land which has been subjected to building, engineering or other operations, excluding temporary uses or urban green spaces, generally comprise redundant industrial lands or docks but may also include former barracks, hospitals or even occasionally, obsolete housing areas.
- 10.1.6. Permission was granted in 2004 (PL15.131275, Reg. Ref. 99/1053) for the construction of 363 no. houses, a community building including a convenience store

on a larger site (14.2ha) incorporating the subject site. It was noted during a site visit on the 5th November 2020 that some of the site has been cleared and minor sections of roadway have been partly completed, primarily from the existing site entrances to the site compound. The compound on site comprises of a large shed, machinery and other stored materials. Construction machinery and materials were noted at the northern site boundary. The site is not an active construction site. Some unfinished houses were also noted within the Earlsfort residential estate, located outside of the current red line boundary. Prior to permission being granted on the larger site, this was a greenfield site. It is noted that the site has been subject to minor works associated with an expired permission, however, having regard to the temporary nature of the uses currently on site, which are associated with development outside of the current red line boundary, it is my view that this is a greenfield site and should be assessed accordingly.

- 10.1.7. In accordance with Policy CS2 only on completion of the development of 75% of Phase 1 lands shall subsequent phasing be considered for additional residential development. Phase 1 lands as set out in the plan relate solely to the delivery of 1,750 units in Mount Avenue / Castletown area. The applicants Material Contravention Statement notes that to date only 10 no. houses have been delivered on these Phase 1 lands.
- 10.1.8. It is noted that permission was granted in 2019 (ABP-304782-19) for 483 no. residential units and a creche on a site designated as Phase 3, approx. 1.6km north east of the subject site and permission was granted (ABP-303253-18) in 2019 for 166 no. residential units and a creche on a site designated Phase 2 located approx. 900m north east of the subject site.
- 10.1.9. The RSES identifies Dundalk as a Regional Growth Centre. The aim of these centres is to support significant population and economic growth to drive effective regional development. The vision for Dundalk is to reach a target population of 50,000 by 2031. The Louth County Development Plan also identifies Dundalk as a Large Growth Town I in the Settlement Hierarchy. Table 2.4 indicates that Dundalk & Environs were expected to have a population growth of 4,322 persons or 1,600 equivalent residential units by 2021. Table 2.5 also indicates that a Housing Land requirement of 57ha is

required for Dundalk up to 2021. Section 2.10 of the Plan refers to Phasing stating that phasing will be provided for in the respective Core Strategies as part of the preparation of local area plans. It is noted that no updated Local Area Plan was prepared for Dundalk.

10.1.10. The RSES acknowledges that the zoning of land and planning permission alone, does not necessarily guarantee delivery and population growth in accordance with projected, targeted timeframes and that attention needs to be paid to the actual delivery to implement strategic aims and housing delivery. It further states that sites with long-term development potential at priority locations should not be 'reserved' in such a way that would create an unreasonable dependency on other sites being brought forward. The subject site is zoned and serviced and located within the urban area of Dundalk, approx. 5km south of the town centre. In my view, to reach the population targets as set out in the core strategy of the development plan and the RESE the consideration of this particular site for development is considered appropriate, in this instance, and should be assessed on its merits.

## 10.2. ***Design and Layout***

10.2.1. The proposed development comprises 257 no. residential units (163 no. houses and 94 no. apartment / duplex units). The proposed units would be provided in 3 no. phases. Phase 1 is generally located in the northern and north western portion of the site. It comprises 93 no. residential units and a creche with 3 no. vehicular accesses from Earlsfort estate to the north and the main vehicular access from the Dublin Road, to the west. Phase 2 is generally located in the eastern and south eastern portion of the site and comprises 84 no. residential units. Phase 3 is located in the south western portion of the site and comprises 80 no. residential units. Phase 2 and 3 are accessed from the internal access roads. Having regard to the planning history and context of the site, the proposed scheme has been designed as phase 2 of the existing Earlsfort residential development and is similar in its traditional design approach and layout.

10.2.2. The site is adequately serviced within the urban area of Dundalk, approx. 5km south of the town centre and train station and 1.5km west of Blackrock village. It has an approx. 360m frontage onto the Dublin Road and is, therefore, highly visible on the approach to Dundalk. There are bus stops opposite the site on both sides of the Dublin

Road, which provide a link to the town. There are a number of employment and educational uses in close proximity to the site, including Dundalk Institute of Technology, Xerox and Finnabair Industrial Estate.

10.2.3. The scheme predominately comprises 2 - 2 and a half storey houses. The layout is arranged around a central area of open space 'Open Space 3', with the internal road network leading from the centre of the site. 'Open Space 3' has an area of 5,466sqm. It is bound to the south by a single storey creche, 3-storey duplex units and a 3-storey apartment block. The planning authority consider that the open space provides a distinctive sense of place and that the new civic space at the frontage of the creche and community building would provide a focal point within the development. It is noted that there is no community building proposed within the scheme, the applicant's reference to a community use within the submitted documentation refers to the creche. In my view the central area of the scheme, which includes additional height (3-storeys) and the single storey creche, would provide a focal point for the scheme and is welcomed.

10.2.4. The scheme includes a 5-storey apartment block located in the south west corner of the site, with 3 - storey duplex units and 2-storey houses parallel to the Dublin Road. The planning authority acknowledged that the scheme provides for an active frontage onto the Dublin Road and provides for connectivity. The active frontage to the southern portion of the Dublin Road is acknowledged and, in my view, is appropriate.

10.2.5. It is noted that the planning authority have no objection to the proposed layout of the scheme. Having regard to the established pattern of development in the adjoining developments, it is my view that the proposed scheme is generally acceptable. However, I have some concerns regarding the layout of the scheme and the potential negative impact on the future and existing residential and visual amenities. These concerns are addressed below

10.2.6. It is proposed to provide an internal road to serve houses 217-224. This road runs parallel to the Dublin Road / western site boundary. I have concerns that this layout would have a negative impact on the public realm when viewed from the Dublin Road. It is my view that if permission is being contemplated that this road be redesigned as a homezone and any residual land be allocated as private open space for houses 217-

224. It is noted that this road also provides access into the Earlsfort development and, therefore, a raised table and associated markings and signage should be provided at the junction with Earlsfort.

10.2.7. Duplex Unit Type 4, are located in the centre of the scheme. These units have a single frontage and are orientated towards the eastern boundary of the site and away from the centre of the development. It is my view that these units should be re-oriented to provide a western frontage towards the centre of the site. The proposed road between these duplex units and the rear gardens of houses 61-68 should also be redesigned as a homezone in accordance with DMURS. Any residual open space should be evenly distributed and incorporated into private open space for houses 61-68 and the duplex units.

10.2.8. The rear boundary walls of houses 151 and 152 are bound by a public walkway from the Dublin Road and the rear boundary walls of houses 153-155 are bound by Open Space 2. It is my opinion that this layout could potentially result in anti-social behaviour. Therefore, it is recommended that the pedestrian route from the Dublin Road, between houses 151 – 152 and duplex units 143-150 be omitted. In addition, houses 153 and 154 should be replaced with House Type 4, which is a detached dwelling. To ensure an appropriate design approach, it is recommended that houses 203 and 204 also be replaced with House Type 4 and that the building line of these detached houses be revised to match the proposed building line of houses 192 – 201.

10.2.9. I also have concerns regarding the proximity of gable end of house no. 60 to the road and the general layout of houses, 51 – 52 which are located on a curve in the road. It is my view that houses 59 – 60 should be omitted and replaced with House Type 4 and that the residual space be evenly distributed between houses 51 – 58.

10.2.10. With regard to permeability, I have concerns regarding the provision of a cul-de-sac at the eastern boundary of the site, which comprises a row of predominantly semi-detached houses (Houses 20 - 41). The alignment of this road does not allow for future connectivity to Ard Na Mara residential estate to the east. It is my view that the footpath within the scheme should be constructed to the boundary wall with Ard na Mara to allow for future connectivity.

- 10.2.11. The design approach of the units reflects the existing built form in the Earlsfort development. A variety and mix of external finishes have been applied to all the units, including brick (red, yellow, tan), dashing and feature render / Ashlar Bands. The finishes for the apartments and duplex units also include a brick cladding. Having regard to the established pattern of development in the adjoining Earlsfort I have no objection to the traditional design of the units, however, I would have concerns regarding the turret feature provided on the roof of both the apartment blocks. This is considered to be an inappropriate design feature and is recommended that it be omitted by way of condition.
- 10.2.12. Having regard to the established pattern of development within the vicinity of the site it is my view that the proposed development is acceptable in principle and would support the emerging suburban character of the area. It is my opinion that the concerns raised above regarding the design and layout of the scheme could be addressed by way of condition, which in the interest of clarity would result in a reduction of 3 no. houses on site.

### 10.3. ***Density***

- 10.3.1. Concerns have been raised by third parties regarding the proposed density, which is considered to be out of character with the adjoining Ard Na Mara residential estate. The applicants Urban Design Statement provides details of the density of the surrounding residential estates. It is noted that the existing Earlsfort has a density of 27 units p/ha and that Ard Na Mara has a density of 12.4 units p/ha.
- 10.3.2. The proposed scheme has a density of 35 units per hectare. The planning authority note that Dundalk is identified as a Regional Growth Centre in the RSES and to ensure efficiency in land usage a density of 35 units per ha is acceptable and not considered to be particularly high having regard to the location.
- 10.3.3. Section 5.11 of the Sustainable Residential Development in Urban Area guidelines states that for outer suburban / 'Greenfield' sites the greatest efficiency in land usage would be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities, involving a variety of housing types where possible, should be encouraged generally. In addition, Objectives 4, 13, 33 and 35 of the National Planning Framework, Section 4.7 of the Regional and Economic Strategy

for the Eastern and Midland Region 2019-2031, SPPR3 and SPPR4 of the 2018 Urban Development and Building Heights Guidelines, 2018 all support higher density developments in appropriate locations, to avoid the trend towards predominantly low-density commuter-driven developments.

10.3.4. Policy HC 18 of the Dundalk and Environs Development Plan seeks to ensure that proposed development complies with the provisions of 'Sustainable Residential Development in Urban Areas 2008' and other DoEHLG guidelines. Therefore, the proposed density of 37 dwellings per hectare is acceptable and in line with the concept of the greatest efficiency in land usage.

#### 10.4. **Height**

10.4.1. Concerns have also been raised by third parties that the proposed scheme is not in keeping with the adjoining Ard Na Mara estate, as it does not include any single storey units. The concerns raised regarding the impact of the proposed height on the existing residential amenities is addressed in section 10.5 below.

10.4.2. The scheme predominately comprises 2 - 2 and half storey (dormer style) houses. The scheme also incorporates 3-storey duplex units, 1 no. 3-storey apartment block and 1 no. 5-storey apartment block. It is noted that the planning authority considered that an increase in height is important when viewed from the Dublin Road to provide a strong urban environment on the approach road to Dundalk and support the proposed height of 3-5 storeys.

10.4.3. Policy RES 19 states that *residential buildings shall not exceed 3 storeys in height, including roof space development except in exceptional circumstances where the planning authority considers that the site can adequately accommodate 4 storeys (including roof space development) and where provision for higher buildings is provided for in any local area plan.* The proposed 5-storey apartment block would, therefore, not comply with policy RES 19. The applicants Material Contravention Statement has not addressed the issue of height.

10.4.4. SPPR 3 of the Building Height Guidelines allows for additional height, where appropriate. It is my view that due to the size of the site and its location on the Dublin Road, with a bus link to Dundalk, that additional height could be accommodated at this

location. However, having regard to the character of the proposed scheme and Policy RES 19 of the development plan it is recommended that a central floor be omitted from proposed Apartment Block 2. The removal of a central floor would result in a reduction of 3 no. apartments.

#### 10.5. **Residential Amenity**

10.5.1. Concerns were raised by third parties that the proposed development would have a negative impact on the existing residential amenities of properties located within the Ard Na Mara residential estate located to the east of the subject site.

10.5.2. The planning authority have stated that having regard to the separation distances and with the provision of appropriate boundary treatments it is considered that the amenity of the existing residents is protected.

10.5.3. The existing houses in Ard Na Mara, along the eastern boundary of the site are single storey and one and a half storey (dormer) dwellings. The proposed houses along the eastern boundary (house no. 1 and 33 - 50) of the proposed scheme are approx. 8.9m in height. It is noted that these dwellings have an option of an additional room at attic / second floor level and dormer windows are provided on the front elevation.

10.5.4. The rear building lines of houses 36-50 are located a minimum of 9m from the eastern boundary and a minimum of 22m from the rear building line of the existing dwellings. The gable side of houses 1 and 33 are located a minimum of 2m from the eastern boundary. Drawing no. 40294-211 and 40294-212 show contextual elevations for the proposed scheme and Ard Na Mara. It is noted that the subject site is elevated approx. 1.2m above the finished floor level of houses within Ard Na Mara. A daylight and sunlight analysis has not been submitted, however, having regard to the separation distance and the limited height of the proposed residential units, it is my view that the proposed development would not result in any negative impacts on the existing residential amenities in terms of overlooking, overshadowing or overbearing impact

#### 10.6. **Open Space**

10.6.1. Concerns have been raised by third parties regarding the under provision of public open space within the scheme.



- 10.6.2. The proposed scheme incorporates 5 no. areas of public open space. Drawing no. 40292-203 and 40292-206 indicate the location and use of these spaces. Area 1 has a stated area of 362sqm. This is a linear area of open space, located along the western site boundary with the Dublin Road adjacent to duplex units 135-150. Area 2 has a stated area of 2,124sqm and is located in the south west portion of the site. It includes active and passive uses. It is rectangular in shape and surrounded on 3 no. sides by roads and on 1 no. side by the rear gardens of houses 153-155. Its design incorporates a vehicular turning area. Area 3 has a stated area of 5,466sqm and is rectangular in shape. It is located at the centre of the scheme and includes active and passive uses. Area 4 has a stated area of 709sqm. This is a linear area of open space in the centre of the scheme, located adjacent to duplex units 77-88. Area 5 has a stated area of 653sqm. It is a linear area of open space and located along the southern site boundary, with the embankment of the Haggardstown Stream, adjacent to duplex units 89 – 120. It is noted that there is an existing area of open space within the Earlsfort development located to the north of the site. During a site visit on the 5<sup>th</sup> November 2020 it was noted that the majority of this area is constructed and available to residents. It is grassed, however, there is no landscaping provided and there no active uses provided within this space.
- 10.6.3. Drawing no. 40292-206 also identifies ‘visual open space areas’ these areas are not included in the calculation of open space. They include the tree lined avenue along the entrance from the Dublin Road and a buffer space at the western site boundary adjacent to houses 217 – 224.
- 10.6.4. As noted above in section 10.2, the high quality of Open Space 3, which is centrally located within the scheme is welcomed and would provide a central focus for the scheme. The planning authority considered that the proposed landscaping significantly enhances the proposed development and includes both active and passive open space. It is considered that the open space provides a distinctive sense of place.
- 10.6.5. Open space accounts for 12.11% (9,269sqm) of the gross site area. Policy HC20 of the development plan requires a minimum of 14% of the gross site area to be provided as open space. The applicant has stated that the Sustainable Residential Development guidelines require that public open space should generally be provided

at a minimum rate of 10% of the site area on large infill sites or brownfield sites and 15% of the site area on greenfield sites. As noted above in section 10.1 it is my view that this is a greenfield site. It is noted that the planning authority do not consider the site to be brownfield site in the context of calculation of open space. The issue of material contravention is addressed in section 10.12 below.

10.6.6. The Sustainable Residential Development guidelines note that there is an increasing focus on the quality of the public open space provided and National Policy Objective 13 of the NPF allows for planning and related standards to be based on performance criteria that seek to achieved well-designed high-quality outcomes. It is my view that some flexibility regarding the quantity of the public open space would be acceptable on the subject site, subject to a high-quality design. Having regard to the layout of the scheme and the provision of public open space provided within the existing Earlsfort development, it is my view that the proposed quantity of open space is considered acceptable in this instance.

10.6.7. The planning authority note that it is important that open space be delivered in a timely manner and not left to the final phase of the development. In this regard the playground and civic amenity space should be completed prior to the provision of more than 100 housing units. The comments of the planning authority are noted, and it is recommended that a condition should be attached to any grant of permission in this regard.

## 10.7. ***Flood Risk***

### ***Coastal and Fluvial Flooding – Haggardstown Stream***

10.7.1. The site is bound to the south by the Haggardstown Stream which flows to the Irish Sea approx. 650m south east of the site. The OPW maps indicate that marginal areas the southern and south eastern site boundaries are located in Flood Zones A or B. There is no record of historic flood on the site.

10.7.2. A site-specific Flood Risk Assessment (FRA) was submitted with the application. It notes that coastal / tidal flooding does marginally encroach along the southern and south eastern boundaries. It states that the site is not affected by fluvial flooding and any flooding from the Haggardstown Stream is influenced by the tide. The FRA notes

that all development is located outside of Flood Zones A and B and the proposed finished floor levels are in accordance with best practice guidance and take account of the predicated effect of climate change. It is also noted that no raising of ground levels is proposed within Flood Zones A or B. Therefore, the proposed development represents 'no change' scenario for the existing floodplains in the vicinity of the site. Having regard to the information submitted I am satisfied that the proposed development is not at risk from coastal or fluvial flooding.

- 10.7.3. It is noted that at the southern boundary of the site, the rear garden boundaries of houses no. 51 - 60 have been set back between 5m and 22m from the blue line boundary, which is the boundary with the Haggardstown Stream. This separation distance is provided along the entire southern boundary of the site with the stream. Drawing no. 40294-204 - Proposed Site Plan indicates that this strip of land between the site boundary and the Haggardstown Stream is not suitable for development and wildflower planting would occur along the embankment. It also notes that this area would be retained for local authority access to the watercourse and a wayleave for Irish Water Infrastructure. Access is provided from a 4m wide access gate along the southern boundary of the site.

#### ***Pluvial Flooding – Surface Water***

- 10.7.4. With regard to pluvial flooding the FRA notes that there is a risk to lower lying land to the east (adjacent to Ard Na Mara) from overflow surface water. The FRA notes that the site is currently permeable, however, during extreme rainfall events surface water has the potential to flow overland to the east of the site.
- 10.7.5. Concerns were raised by third parties that the proposed development would result in flooding of the adjoining Ard Na Mara residential estate, as it is unclear how the development incorporates the existing surface water drain along the eastern boundary of the site. It is considered that the FRA is inaccurate as it is based on the existing site levels of between 4.2mOD and 4.9mOD and does not take account of the original levels of the site, which were noted between 2.4mOD and 2.7mOD. This area was marshy and incorporated an open water course. Works were carried out in 2019 to raise the levels in the south east portion of the site. It is considered that this area of

the site should be retained as open space to avoid any potential flood risk to the adjoining residential estate.

- 10.7.6. The subject site forms part of a larger landholding that was granted permission (ABP-PL15.131275) in 2004. The subject site represents phase 2 of this development, Phase 1 - 'Earlsfort' is located to the north of the site. The Earlsfort development included infrastructural works in the form of roads and foul / storm services. The site levels from the 2004 permission are noted as approx. 3m along the boundary with Ard Na Mara. The current levels within the site are stated as being between 4.2 mOD and 4.9 mOD along the southern and eastern boundaries, with soil heaps at in the site with a maximum height of 11.54 mOD. It is noted that third parties raised concerns that this increase in levels was carried out in 2019 without planning permission and not between the period of 2005 and 2010 as stated by the applicant. It is my view that any potentially unauthorised works carried out on the site is an issue for the Planning Enforcement Section of Louth County Council. Having regard to the information submitted, the existing site levels are appropriate as the baseline for assessing a potential flood risk from surface water.
- 10.7.7. It is noted that the existing natural ground levels in the east of the site fall towards Ard Na Mara. The proposed development would interrupt this flow path towards the eastern boundary of the site, as surface water would be collected in the drainage network and routed to green areas. As no surface water drainage network currently exists within the site this would improve the situation for adjoining properties. SuDs components would be incorporated into the scheme and the design of the proposed surface water drainage system would ensure that there is no increased risk of flooding, as discharge rates would be limited to greenfield rates. In the unlikely event of a blockage occurred within the system, the layout is designed to ensure flows are directed towards areas of open space and away from development. Section 3 of the applicants Engineering Services report provides additional detail of the design and maintenance of the proposed surface water strategy. Drawing no. A1916-08 illustrates the existing flow of surface water and A1916-09 illustrates the direction of flow upon completion of the development.

10.7.8. Having regard to the information submitted I am satisfied that the proposed arrangements are sufficient to cater for surface water run off relating to the site and would not result in a potential flood risk within the site or to any adjoining sites.

***Flood Defence Measures***

10.7.9. The report of the planning authority's Infrastructure Directorate noted that the Neagh Bann Flood Risk Management Report identified the south eastern portion of the site as an area where hard flood protection measures are, to be considered, to be provided. The Neagh Bann Flood Risk Management Report sets out a strategy, including a set of proposed measures, for the cost-effective and sustainable, long-term management of flood risk in the river basin. The Plan includes structural flood protection measures for communities at significant flood risk identified through the CFRAM Programme. The preferred solutions for the Dundalk and Blackrock South Area of Further Assessment (AFA), which incorporates the subject site, are hard defences with improved channel conveyance. Hard defences include flood embankments and walls, rock armour coastal protection, demountable barriers, road raising, a sluice gate and tanking of two properties. Appendix G, Map G4 provides indicative proposals for Dundalk and Blackrock South. There is an indicative 'hard defences' line shown on the south east portion of the subject site. The report notes that works presented are not the final and definitive works and that the potential flood relief works would need to be further developed.

10.7.10. The planning authority note that these works are currently being progressed to detailed design and would be implemented within 10 years, as per the government flood relief scheme. Therefore, it is considered that houses 42-60 and duplex units 89-96 (drawing no. A1916-01 Rev B) are premature at this point, as these units and associated areas of open space are located in an area identified in the flood study report that shall be provided with flood protection measures.

10.7.11. The FRA does not address the OPW's Neagh Bann Flood Risk Management Report and potential hard defensive measures located within the south eastern portion of the site.

10.7.12. The OPW's report notes that the flood defence works are not final, and that the potential flood relief works would need to be further developed. It is my view that having regard to the indicative nature of the works as outlined in Map G4 and to the substantial set back provided along the southern boundary of the site with the stream there is no justification to omit the houses 42-60 and duplex units 89-96.

## 10.8. **Water Services**

10.8.1. The proposed development would be connected to the existing public water mains and public sewer. Irish Water acknowledged that a confirmation of feasibility was issued to the applicant for connections to the public network.

10.8.2. In respect of water it is noted that a connection is feasible without any upgrade. It is noted that water supply has been brought to the northern boundary of the site, at a number of locations as part of the design and works undertaken for the previous permission on the site. In addition to these works, there is an existing connection to the public supply on the Dublin Road.

10.8.3. The submission from Inland Fisheries Ireland states that it is unclear which treatment plant the wastewater from the proposed development would be discharged. It is important to ensure there is sufficient capacity to adequately treat the wastewater arising from the development. The nearest treatment plant is at Blackrock, which discharges to the Fane Estuary. The recent Annual Environmental Report (2019) states the remaining capacity at this plant is 359 P.E. This indicates that there is insufficient capacity to treat and receive wastewater from the proposed development. It is acknowledged that the information submitted does not detail which wastewater treatment plant would serve the development.

10.8.4. The submission from Irish Water notes that the Dundalk Drainage Area Plan (DAP) is progressing and will identify the upgrades required for the wider area. In the interim Irish Water has undertaken optimisation and upgrade works at the Blackrock Wastewater Plant and Cocklehill Pump Station. These works are nearing completion, with an expected ended date at the end of 2020.

10.8.5. The applicants Engineering Services Report notes that as part of the previous permission granted on site the foul network was developed for the overall site, which

included Earlsfort. This resulted in the placement of some foul water infrastructure under the subject site in order to connect to the public sewer located to the south of the subject site. The existing network within the site has been checked for capacity and for any projected increase in flows and verified or redesigned as appropriate.

10.8.6. As noted above in section 10.7 it is proposed that surface water would drain via gravity and discharge at a restricted rate to the Haggardstown Stream, located to the south of the site. The applicants Engineering Services Report notes that a considerable section of the storm water network, have already been installed. Therefore, the general arrangements have been pre-determined. It is also noted that existing pipework has been assessed by adding expected flow from the subject site. Pipe networks that have been found to be insufficient for the overall drainage of the subject site and the existing Earlsfort have been replaced with new lines.

10.8.7. Inland Fisheries submission is noted, however, having regard to the submission from Irish Water, I am satisfied that there are no infrastructural aspects to the proposed development that present any conflicts or issues to be clarified.

#### 10.9. ***Transportation***

10.9.1. The Traffic and Transport Report submitted with the application notes that there is an extensive footpath network surrounding the site, which provides linkages to the wider area. There are limited cycling facilities in the vicinity of the site and cyclists generally share the public road with vehicles. It is proposed to provide a 3m wide shared footpath and cycle route with an additional 1.5m grass verge, adjoining the carriageway, along the western boundary of the Dublin Road. The applicant has stated that due to the lack of cycling infrastructure along the Dublin Road, this design approach is preferred as the provision of segregated 2m wide footpath and 2m wide cycle route would cause confusion and result in contraflow cycling on the eastern side of the Dublin Road.

10.9.2. While it is acknowledged that there is limited cycling infrastructure in the vicinity of the site. It is my view that an appropriate set back should be provided to ensure that a minimum 2m wide cycle route and a minimum 2m wide footpath could be accommodated along the Dublin Road. This would ensure that appropriate space is provided to support the expansion of cycling infrastructure within Dundalk.

- 10.9.3. The site is relatively well served by public transport in the form of bus. There is a bus stop located on both sides of the Dublin Road, adjacent to the subject site. The routes provide linkages to Dundalk, Blackrock, Castlebellingham, Dunleer and Dublin. The site is also located approx. 5km from Dundalk Train Station which provides commuter services to Dublin and Belfast.
- 10.9.4. The planning authority's report noted that the surrounding road network experiences traffic congestion at peak times. A Transportation and Traffic Assessment was submitted with the application. It assessed the potential impact of the development on 4 no. junctions in this regard (1) Dublin Road / Marlog Road; (2) Dublin Road / Seafield Road; (3) Seafield Road / Earlsfort; (4) Seafield Road / Rock Road / Wallace's Road. The information submitted indicates that all the junctions would operate within capacity and, therefore, the potential additional traffic generated by the development would not result in queuing or delays. The TTA also notes that the proposed development would provide a new entrance onto the Dublin Road, which would facilitate the distribution of traffic onto the surrounding road network. It is noted that this access would operate as a simple priority junction, with a new turning lane provided on the Dublin Road. This junction would operate within capacity and would not result in any queuing or delays on the Dublin Road.
- 10.9.5. It is noted that the submission from TII raised no concerns regarding the impact of the proposed development on the capacity of the surrounding road network.
- 10.9.6. In conclusion, having regard to the evidence submitted, it is my view that the potential number of trips generated by the proposed development would not have a significant impact on the capacity of the network and that the proposed development would not generate any road safety concerns and would improve cycle infrastructure and safety along the Dublin Road.
- 10.10. **Archaeology**
- 10.10.1. The submission from the Department of Culture, Heritage and the Gaeltacht noted the significant findings in the adjacent site to the north and considered that it is possible that unidentified archaeological features and deposits may survive within the subject



site. Therefore, it was recommended that an Archaeological Impact Assessment be prepared.

10.10.2. An Archaeological Testing Report which was carried out in 2004 has been submitted with the application. It notes that 21 trenches, varying in length from 40m – 330m, were excavated in July 2004 on a larger landholding incorporating the subject site. No archaeological features of note were recovered in any of the trenches. Notwithstanding this, the report notes that due to the archaeologically sensitive area of the site, it is recommended that archaeological investigations be carried out on site prior to construction. If permission is being contemplated it is considered that this issue could be addressed by way of condition.

#### 10.11. **Part V**

10.11.1. It is proposed to transfer 26 no. units upon completion of the development. The units comprise 7 no. 1-beds, 12 no. 2-beds and 7 no. 3-bed. The breakdown of the units is as follows 2 no. houses and 6 no. apartments would be transferred on completion of phase 1, 1 no. house and 6 no. duplex units upon completion of phase 2 and 8 no. duplex units and 3 no. apartments upon completion of phase 3.

10.11.2. The planning authority noted that the applicant has engaged with the Housing Department of Louth County Council with regard to the provision of units to meet with Part V requirements.

#### 10.12. **Material Contravention**

10.12.1. As outlined above the proposed development would materially contravene the Dundalk and Environs Development Plan 2009 2015 (as extended) with regard to Policy CS2 - phasing of development and Policy HC20 – provision of public open space. The applicants Material Contravention Statement addresses and provides a justification for the material contravention of Policy CS2 and does not consider the proposed development to be a contravention of Policy HC20. In the interest of clarity, the material contraventions are outlined below.

### **Dundalk and Environs Development Plan 2009 – 2015 (as extended)**

- **Policy CS 2 – Phasing** : Policy CS 2 seeks ‘to apply the phasing of new residential development as per the phasing strategy set out, whereby residential development, other than infill, brownfield or mixed-use development shall only be permitted in the identified area within Phase 1. Only on completion of the development of 75% of these lands shall subsequent phasing be considered for additional residential development’

The subject site is located on phased 2 lands.

- **Policy HC 20 - Open Space:** Policy HC 20 seeks to ‘Require that the quantitative standard of a minimum of 14% of the gross site area is provided as public open space in all new residential developments and that the qualitative requirements described above are adhered to.

*Ensure that no area of public open space is less than 200 square metres in area and no boundary is less than 10 metres in length’.*

Open space provision for the proposed development is 12.11% of the total site area, which is below the minimum quantitative standard set out in the Plan.

10.12.2. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) 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 the 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.

Having regard to the characteristics of the proposed development, Section 37 (2) (b) (i), (ii), (iii) and (iv) are considered relevant in this instance.

#### 10.12.3. **Section 37 (2) (b)(i)**

The proposed development falls within the definition of strategic housing as set out in the Planning and Development (Housing) and Residential Tenancies Act 2016 and by the government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the proposed material contraventions are justified by reference to section 37(2)(b)(i) of the act.

#### 10.12.4. **Section 37 (2) (b)(ii) - Dundalk and Environs Development Plan 2009 - 2015**

##### **Policy CS 2 - Phasing**

The proposed material contravention to Policy CS2 of the Dundalk and Environs Development Plan 2009 – 2015 (as extended) is justified by reference to:-

- The core strategy of the Louth County Development Plan 2015 – 2021, which allocated an additional 1,600 units for the period 2015-2021 and required an additional 57 ha of phase 1 lands be provided in Dundalk. The Dundalk and Environs Development Plan was not varied to take account of these additional lands.
- Section 1.4 – Strategic Objectives of the Louth County Development Plan to direct new development in accordance with the Settlement Hierarchy is not reflected in the Dundalk and Environs Development Plan.

The proposed material contravention is, therefore, justified by reference to section 37(2)(b)(ii) of the act.

#### 10.12.5. **Section 37 (2) (b)(iii) - Dundalk and Environs Development Plan 2009 - 2015**

##### **Policy CS 2 - Phasing**

The proposed material contravention to Policy CS2 of the Dundalk and Environs Development Plan 2009 – 2015 (as extended) is justified by reference to:-

- Objective 7 and Objective 33 of the National Planning Framework which encourages population growth in strong employment and service centres of all sizes, supported by employment growth and priorities the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- Section 4.5 Regional Growth Centres of the RSES which envisions a population target of 50,000 for the entire settlement of Dundalk up to 2031.

The proposed material contravention is, therefore, justified by reference to section 37(2)(b)(iii) of the act.

### ***Policy HC 20 - Open Space***

The proposed material contravention to Policy HC20 the Dundalk and Environs Development Plan 2009 – 2015 (as extended) is justified by reference to:-

- National Policy Objective 13 which allows for planning and related standards to be based on performance criteria that seek to achieved well-designed high-quality outcomes.

The proposed material contravention is, therefore, justified by reference to section 37(2)(b)(iii) of the act.

#### **10.12.6. Section 37 (2) (b)(iv) - Dundalk and Environs Development Plan 2009 – 2015**

### ***Policy CS 2 - Phasing***

Since the making of the Dundalk and Environs Development Plan 2009 2015 (as extended) permission was granted under ***Strategic Housing Development ABP 304782-19*** in 2019 for 483 no. residential units and a creche on lands designated as Phase 3, approx. 1.6km north east of the subject site and ***Strategic Housing Development ABP-303253-18*** in 2019 for 166 no. residential units and a creche on lands designated Phase 2, approx. 900m north east of the subject site. Having regard to the pattern of development and the permission granted in the area since the making of the plan the proposed material contravention to Policy CS2 - Phasing is justified by reference to section 37(2)(b)(iii) of the act.

### 10.12.7. **Conclusion**

Having regard to the provisions of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended), I consider that a grant of permission, that may be considered to material contravene the Policy CS2 and Policy H20 of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified in this instance under sub sections (i), (ii), (iii) and (iv) having regard to the Planning and Development (Housing) and Residential Tenancies Act 2016, by government's policy to provide more housing, as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, the National Planning Framework, 2018, the Regional and Economic Strategy for the Eastern and Midland Region 2019-2031, Louth County Development Plan 2015-2021 and to the pattern of development and the permission granted in the area since the making of the plan.

## 11.0 **Environmental Impact Assessment (EIA) Screening**

- 11.1. An Environmental Impact Assessment Screening report was submitted with the application.
- 11.2. 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.)
- 11.3. It is proposed to construct 257 no. residential units and a creche building on a site within an overall area of approx. 7.6ha. Part of the subject site has been cleared. It currently accommodates a construction compound and some infrastructural works have been undertaken, including roads and underground services. However, this is not an active construction site. The site is located approx. 5km south of Dundalk and

approx. 1.5km west of Blackrock village, on the edge of the existing built up area. It is not in a business district.

11.4. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any Natura 2000 sites (as discussed below). The development would be in residential use. It would not give rise to waste, pollution or nuisances that differed from that arising from the other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Louth County Council, upon which its effects would be marginal.

11.5. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for residential uses under the provisions of the Louth County Development Plan 2016 – 2022 and the results of the strategic environmental assessment of the Louth County Development Plan 2015 – 2021 undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. As Schedule 7a information has not been submitted a screening determination is not required. An EIA - Preliminary Examination form has been completed.

## 12.0 **Appropriate Assessment**

### 12.1. ***Compliance with Article 6(3) of the Habitats Directive***

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

### 12.2. ***Background on the Application***

The applicant has submitted a screening report for Appropriate Assessment and a Natura Impact Statement.

The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. An Ecological Impact Assessment and a Construction Management Plan were also submitted with the application.

The applicants AA Screening Report concluded that the potential likely significant effects to European Sites cannot be ruled out at the screening stage and that an Appropriate Assessment of the project is required.

Having reviewed the documents, submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

### 12.3. ***Likely significant effects***

The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

### 12.4. ***Brief description of the development and site***

12.4.1. Section 2.0 of the Screening Report for AA provides an overview of the project. In summary, the development comprises

- The provision of 257 no. residential dwellings and a creche.
- Site excavation works, including the removal of the existing site compound, and all ancillary site development and construction works to facilitate foul, water and service networks;
- Internal site works and attenuation systems to include a hydrocarbon and silt interceptor on the storm network, prior to discharge to the adjacent watercourse.
- Internal road network, car parking and bicycle storage;
- Provision of a cycle route along the western boundary (Dublin Road); and
- Provision of public open space and landscaping works.

Section 3 of the Screening Report for AA describes the development site. It is described as a brownfield site, characterised by spoil and bare ground and recolonising bare ground habitats. The habitats occurring with the site are devoid of ecological value and the site offers negligible habitat for wildlife occurring in the surrounding area.

12.4.2. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:



- Construction related -uncontrolled surface water / silt / construction related pollution; and
- Species disturbance

## 12.5. **European Sites**

12.5.1. The development site is not located in or immediately adjacent to a European site. The closest European site are Dundalk Bay SAC (000455) and Dundalk Bay SPA (004026) these are within 450m of the proposed development.

12.5.2. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

<b>European Site Site Code</b>	<b>List of Qualifying interest /Special conservation Interest</b>	<b>Distance from proposed development  (Km)</b>	<b>Connections (source, pathway receptor)</b>	<b>Considered further in screening  Y/N</b>
Dundalk Bay SAC  000455	Estuaries Mudflats and sandflats not covered by seawater at low tide Perennial vegetation of stony banks Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows	450m	Haggardstown Stream	Yes
Dundalk Bay SPA  004026	Great Crested Grebe <i>Podiceps</i> Greylag Goose Light-bellied Brent Goose Shelduck	450m	Haggardstown Stream	Yes

	Teal Mallard Pintail Common Scoter Red-breasted Merganser Oystercatcher Ringed Plover Golden Plover Grey Plover Lapwing Knot Dunlin Black-tailed Godwit Bar-tailed Godwit Curlew Redshank Black-headed Gull Common Gull Herring Gull Wetlands & Waterbirds			
Stabannan- Braganstown SPA  004091	Greylag Goose	9km	No	No

12.6. **Identification of likely effects**

The applicants AA Screening Report considered that the potential indirect impacts from the proposed development to the designated sites related to the following: -

- Hydrological link via construction phase surface water management, operational phase surface water management and wastewater;
- Noise disturbance to species listed as qualifying interests.

In the absence of mitigation measures, it is not possible to rule out impacts which could negatively impact on qualifying interests of the SAC and SPA.

## 12.7. **Screening Determination**

12.7.1. The conservation objective for the Stabannan-Braganstown SPA is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. Having regard to the distance between the site and the SPA, the qualifying interest and conservation objective for the site and the nature and scale of the proposed development, the possibility of significant effects to the Stabannan-Braganstown SPA have been screened out.

12.7.2. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination with other plans or projects could have a significant effect on European Site No. 000455 or 004026, in view of the site's Conservation Objectives, and Appropriate Assessment and submission of a NIS is, therefore, required.

## 12.8. **The Natura Impact Statement**

The application included a NIS which examines and assesses the potential adverse effects of the proposed development on Dundalk Bay SAC and Dundalk Bay SPA. It was prepared in line with current best practice guidance and provides an assessment of the potential impacts to the designated sites and an evaluation of the mitigation measures proposed.

Having reviewed the documents, submissions and consultations I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of Dundalk Bay SAC and Dundalk Bay SPA alone, or in combination with other plans and projects

### 12.8.1. **Appropriate Assessment of implications of the proposed development**

The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best

scientific knowledge in the field. The following assessment has regard to the following:

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- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service (2009).
- Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC (2002)
- Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC(2018)
- All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

#### ***Dundalk Bay SAC (000455) and Dundalk Bay SPA (004926)***

The proposed development would not be located within the SAC or SPA and there would be no direct effects as a result.

The Dundalk Bay SAC and the Dundalk Bay SPA overlap. The site is located approx. 450m east of both the SAC and the SPA. The site is bound to the south by the Haggardstown Stream, which drains to Dundalk Bay. Therefore, there is a potential hydrological pathway to the SAC and SPA.

Dundalk Bay is a very large open, shallow sea bay with extensive saltmarshes and intertidal sand / mudflats, extending some 16 km from Castletown River on the Cooley Peninsula in the north, to Annagassan / Salterstown in the south. The bay encompasses the mouths and estuaries of the Rivers Dee, Glyde, Fane, Castletown and Flurry.

#### ***Potential Adverse Impacts***

The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include the following: -

**Hydrological Link:** Surface water run off associated with the construction stage and operational phase could potentially enter the Haggardstown Stream and ultimately the designated sites. Therefore there is potential for indirect effects on surface water quality during site preparation and earthworks. The NIS notes that the qualifying habitats are not sensitive to influxes of sediment materials and the discharge of silt laden surface water from the site during construction would not represent a negative impact to these habitats. However, potentially contaminating material such as oils, fuels, lubricants, other construction related solutions and cement based products would be used on site during the construction phase and the accidental emission of such a material would have the potential to undermine water quality within the bay.

During the operational phase there is potential for contaminated surface water run-off from fuel leaks or accidental spills to potentially undermine water quality within the bay. The NIS considers that any uncontrolled release of contaminated surface water to the Haggardstown Stream, would likely be rapidly diluted and distributed within the Bay. Notwithstanding this, the ongoing discharge of waters with high concentrations of contaminating substances could over time lead to the deposition of such contaminants in wetland intertidal habitats, which has the potential to undermine the conservation status of both the SAC and the SPA.

The NIS recommends control mitigation measures to protect the environment from pollutants. These include the preparation of a Construction Management Plan, correct storage, use and maintenance of all equipment, materials and chemicals. The site works include the installation of a drainage system with settlement / silt collection ponds and the provision of temporary interceptors. Standard construction phase silt and petrochemical interception would also be carried out on all run off and pumped water. In addition, a silt curtain would be installed along the entire length of the southern boundary of the site, between the site and the Haggardstown Stream. This would prevent any sediment discharge from draining into the watercourse.

Adherence to best practices methodologies during the construction phase would control the release of sediments to surface water and prevent surface and ground water pollution as a result of accidental spillages or leaks.

During the operational phase all surface water run-off associated with the development would drain via gravity and discharge at a restricted rate to the Haggardstown Stream. The NIS notes that a considerable section of the storm water network has already been installed throughout the subject site as a result of the design and works undertaken for the earlier planning application. Therefore, the general arrangement has been predetermined.

The NIS notes that control measures have been incorporated into the design of the scheme, including SUDS. The provision of these features would ensure that surface water emitted from the project would be adequately treated and would eliminate any risk of polluted surface water being discharged during the operational phase.

**Noise Disturbance:** The applicants NIS notes that during the construction phase a variety of machinery would be in use including excavators, lifting equipment, dumper trucks, compressors and generators. Due to the nature of the work there is potential for significant noise levels. The NIS sets out the potential noise levels generated from the construction phase and notes that no important foraging or roosting habitat for wetland species occurs within 450m of the site. It is considered that the proposed development would be imperceptible and, therefore, noise generated during the construction phase is not predicated to have the potential to undermine the conservation status of wetland birds of the SPA.

**Dundalk Bay SAC (000455)****Key issues that could give rise to adverse effects includes: -**

- Habitat Loss
- Water Quality and water dependant habitats
- Disturbance of QI species

**Conservation Objectives:** to maintain or restore the favourable conservation status of habitats and species**Summary of Appropriate Assessment**

<b>Qualifying Interest feature</b>	<b>Conservation Objectives</b>	<b>Potential adverse effects</b>	<b>Mitigation measures</b>	<b>In-combination effects</b>	<b>Can adverse effects on integrity be excluded?</b>
<b>Estuaries</b>	To maintain the favourable conservation condition of Estuaries	Discharge of inadequately treated or contaminated storm water would not have the potential to result in changes to the extent of the estuarine habitat occurring within the Bay.  However, any untreated discharge from the site has the potential to undermine the conservation of the subtidal fine sand community complex.	Construction Management Plan ensuring correct storage, use and maintenance of all equipment, materials and chemicals.  The site works include the installation of a drainage system with settlement / silt collection ponds and the provision of temporary interceptors. Standard construction phase silt and petrochemical interception would also	No effect	Yes
<b>Mudflats and sandflats not</b>	To maintain the favourable conservation	Discharge of inadequately treated or contaminated storm water would		No effect	Yes

<b>covered by seawater at low tide</b>	condition of Mudflats and sandflats not covered by seawater at low tide	not have the potential to undermine its extent  However, it could result in changes to the community of infauna supported by this habitat	be carried out on all run off and pumped water.  In addition, a silt curtain would be installed along the entire length of the southern boundary of the site, between the site and the Haggardstown Stream. This would prevent any sediment discharge from draining into the watercourse.		
<b>Perennial vegetation of stony banks</b>	To maintain the favourable conservation condition of Perennial vegetation of stony banks	No effect. Perennial vegetation of stony banks are not located within the zone of influence of the proposed development.	Adherence to best practices methodologies during the construction phase would control the release of sediments to surface water and prevent surface and ground water pollution as a result of accidental spillages or leaks.	No effect	Yes
<b>Salicornia and other annuals colonising mud and sand</b>	To restore the favourable conservation condition of <i>Salicornia</i> and other annuals colonizing mud and sand	Discharge of inadequately treated or contaminated storm water would not undermine this habitat or its structure.	During the operational phase all surface water run-off associated with the development would drain via gravity and discharge at a restricted rate to the Haggardstown Stream.	No effect	Yes
<b>Atlantic salt meadows</b>	To restore the favourable conservation condition of <i>Salicornia</i> and other annuals colonizing mud and sand	Discharge of inadequately treated and contaminated storm water could result in changes to the vegetation community of this habitat, result over time in a decrease in the extent of the habitat	Control measures have been incorporated into the design of the scheme, including SUDS. The provision of these features would ensure that surface water emitted from the project would be adequately treated and	No effect	Yes
<b>Mediterranean salt meadows</b>	To maintain the favourable conservation	Discharge of inadequately treated and contaminated storm water could result in changes to the vegetation community of this habitat, result		No effect	Yes



	condition of Atlantic salt meadows	over time in a decrease in the extent of the habitat	would eliminate any risk of polluted surface water being discharged during the operational phase.		
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<p><b>Dundalk Bay SAC (004926)</b>  <b>Key issues that could give rise to adverse effects includes: -</b></p> <ul style="list-style-type: none"> <li>• Disturbance of QI species</li> <li>• Habitat Loss</li> <li>• Water Quality and water dependant habitats</li> </ul> <p><b>Conservation Objectives:</b> to maintain the favourable conservation status of habitats and species</p>					
Qualifying Interest feature	Conservation Objectives	Potential adverse effects	Mitigation Measures	In-combination effects	Can adverse effects on integrity be excluded?
Special Conservation interest bird species	To maintain the favourable conservation status of habitats and species	Discharge of inadequately treated and contaminated storm water could undermine the habitats and the associated prey resource upon which wetland bird species rely. Overtime such adverse effects could result in a decline in the long term population trend and result in a decrease in the	Construction Management Plan ensuring correct storage, use and maintenance of all equipment, materials and chemicals.  The site works include the installation of a drainage system with settlement / silt collection ponds and the	No effect	Yes

		<p>range, timing and intensity of use of the SPA by light-bellied brent geese, Oystercatcher, Black-tailed Gotwit, Dunlin and Redshank.</p> <p>The displacement of birds as a result of noise disturbance from the construction phase</p>	<p>provision of temporary interceptors.</p> <p>Standard construction phase silt and petrochemical interception would also be carried out on all run off and pumped water.</p> <p>In addition, a silt curtain would be installed along the entire length of the southern boundary of the site, between the site and the Haggardstown Stream. This would prevent any sediment discharge from draining into the watercourse.</p> <p>Adherence to best practices methodologies during the construction phase would control the release of sediments to surface water and prevent surface and ground water pollution as a result of accidental spillages or leaks.</p> <p>During the operational phase all surface water run-off associated with the development would drain via</p>		
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			<p>gravity and discharge at a restricted rate to the Haggardstown Stream.</p> <p>Control measures have been incorporated into the design of the scheme, including SUDS. The provision of these features would ensure that surface water emitted from the project would be adequately treated and would eliminate any risk of polluted surface water being discharged during the operational phase.</p> <p>Mitigation measures are also proposed during the construction phase to minimise noise levels generated, including limiting the hours of activity, engagement with local authority and residents, location of plant away from noise receptors, use of plan with low potential for noise generation and monitoring of noise levels.</p>		
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### ***Integrity test***

Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Dundalk Bay SAC and Dundalk Bay SPA in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects

### **12.9. *Appropriate Assessment Conclusion***

The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act, 2000 (as amended).

Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Dundalk Bay SAC and Dundalk Bay SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those site(s) in light of its / their conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 000455 or 004926, or any other European site, in view of the site's Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

### **13.0 Recommendation**

Having regard to the above assessment, I recommend that Section 9(4)(a) of the Act of 2016 be applied and that permission is granted for the reasons and considerations and subject to the conditions set out below.

### **14.0 Reasons and Considerations**

Having regard to:

- The sites planning history;
- The site's location on lands with a zoning objective for residential development;
- The policies and objectives in the Dundalk Environs Development Plan 2009-2015 (as extended) and Louth County Development Plan 2015-2021;
- Nature, scale and design of the proposed development;
- Pattern of existing development in the area;
- The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- The Urban Development and Building Heights Guidelines for Planning Authorities 2019;
- The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- Submissions and observations received; and
- Chief Executives Report.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 15.0 Recommended Order

**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 9<sup>th</sup> day of August 2020 by Genesis Planning Consultants, on behalf of PJ and EJ Doherty Limited.

**Proposed Development:** The proposed development comprises 257 no. residential units, comprising 163 no. houses and 94 no. apartment / duplex units and a creche (309 sqm). The main vehicular access is proposed via the Dublin Road with 3 no. additional vehicular accesses from Earlsfort via the existing internal estate roads to the north.

Works include upgrades to the Dublin Road to facilitate the vehicular access, including the provision of a turning lane into the scheme and a cycle lane along the western site boundary with the Dublin Road, associated infrastructural site and drainage works, including foul and surface water drainage, attenuation tanks, 446 no. car parking spaces, 108 no. bicycle spaces, bin storage, 2 no. ESB substations, landscaping, boundary treatments, public lighting and all ancillary site works and associated works above and below ground.

The application contains a Statement of Consistency setting out how the proposal will be consistent with National and Regional Policy and the objectives of the Dundalk and Environs Development Plan and the Louth County Development Plan.

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.

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

- a. The sites planning history;
- b. The site's location on lands with a zoning objective for residential development;
- c. The policies and objectives in the Dundalk Environs Development Plan 2009-2015 (as extended) and Louth County Development Plan 2015-2021;
- d. Nature, scale and design of the proposed development;
- e. Pattern of existing development in the area;
- f. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- g. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- h. Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- i. The Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- j. The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- k. The Urban Development and Building Heights Guidelines for Planning Authorities 2019;
- l. The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009;
- m. Submissions and observations received;
- n. Chief Executives Report; and
- o. The Inspectors Report.

### ***Appropriate Assessment***

The Board completed an Appropriate Assessment 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 an zoned and adequately serviced urban site, the information in the Natura Impact Assessment, the Screening Report for Appropriate Assessment and the Ecological Impact Assessment submitted with the application, the Inspector's Report, and submissions on file. In completing the Appropriate Assessment, 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 adversely affect the integrity of the European site No. 000455 or 004926, or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

### ***Environmental Impact Assessment***

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening 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:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for residential uses under the provisions of the Louth County Development Plan 2016 – 2022 and the results of the strategic environmental assessment of the Louth County Development Plan 2015 – 2021 undertaken in accordance with the SEA Directive (2001/42/EC),



- The location of the site within the existing built up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

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 proposed development is, apart from the parameters of Policy CS2 and Policy HC 20 broadly compliant with the provisions of both the Dundalk and Environs Development Plan and the Louth County Development Plan and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene Policy CS2 and Policy HC20 of the Dundalk and Environs Development Plan 2009-2015 as outlined below: -

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

- The proposed development falls within the definition of strategic housing set out in Planning and Development (Housing) and Residential Tenancies Act 2016.
- Government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016

The Board considers that, having regard to the provisions of section 37(2)(b)(ii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

- The core strategy of the Louth County Development Plan 2015 – 2021, which allocated an additional 1,600 units for the period 2015-2021 and required an additional 57 ha of phase 1 lands be provided in Dundalk. The Dundalk and Environs Development Plan was not varied to take account of these additional lands.
- Section 1.4 – Strategic Objectives of the Louth County Development Plan to direct new development in accordance with the Settlement Hierarchy is not reflected in the Dundalk and Environs Development Plan.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

**Policy CS 2 – Phasing:** The proposed material contravention to Policy CS2 of the Dundalk and Environs Development Plan 2009 – 2015 (as extended) is justified by reference to:-

- Objective 7 and Objective 33 of the National Planning Framework which encourages population growth in strong employment and service centres of all sizes, supported by employment growth and priorities the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

- Section 4.5 Regional Growth Centres of the RSES which envisions a population target of 50,000 for the entire settlement of Dundalk up to 2031.

**Policy HC 20 - Open Space:** The proposed material contravention to Policy HC20 the Dundalk and Environs Development Plan 2009 – 2015 (as extended) is justified by reference to:-

- National Policy Objective 13 which allows for planning and related standards to be based on performance criteria that seek to achieved well-designed high-quality outcomes.

The Board considers that, having regard to the provisions of section 37(2)(b)(iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Dundalk and Environs Development Plan 2009-2015 (as extended) would be justified for the following reasons and considerations:

- Since the making of the Dundalk and Environs Development Plan 2009 2015 (as extended) permission was granted under **Strategic Housing Development ABP 304782-19** in 2019 for 483 no. residential units and a creche on lands designated as Phase 3, approx. 1.6km north east of the subject site and **Strategic Housing Development ABP-303253-18** in 2019 for 166 no. residential units and a creche on lands designated Phase 2, approx. 900m north east of the subject site.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i), (ii), (iii) and (iv) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

Furthermore, the Board considered that, subject to compliance with the conditions set out below that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 16.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.  
**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows: -
  - a. A central floor within Apartment Block 2 shall be omitted and the apartment block shall be a maximum of 4-storeys in height. The turret feature provided on the roof of both the Apartment Block 1 and Apartment Block 2 shall be omitted.
  - b. Houses 59 and 60 shall be replaced with house type 4 (detached dwelling). The residual space shall be distributed between houses 51-58.
  - c. Houses 203 and 204 shall be replaced with House type 4 (detached dwelling) and houses 153 and 154 shall be replaced with House type 4 (detached dwelling). The building line of the revised house type shall match the building line of houses 192-201.
  - d. The internal road serving houses 217 – 224 which runs parallel to the Dublin Road and provides access into Earlsfort to the north shall be redesigned as a homezone, in accordance with DMURS. Any residual land be allocated as private open space for houses 217-224. A raised table and associated road markings and signage shall be provided at the junction with Earlsfort.
  - e. Duplex Unit Type 4 shall be re-oriented to provide a western frontage. The road between Duplex Units 69-88 and the rear gardens of houses

61-68 shall be redesigned as a homezone. The residual open space shall be incorporated into private open space for houses 61-68 and duplex units.

- f. The pedestrian route from the Dublin Road to between houses 151 – 152 and duplex units 143-150 shall be omitted.

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

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

3. Open Space 3 as indicated on drawing no. 40294-206 shall be completed and prior to the commencement of development of phase 2. Details of the facilities provided in the open space area shall be submitted to and agreed in writing with the Planning Authority.

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

4. The footpath along the eastern site boundary shall be constructed to the boundary wall with Ard na Mara to allow for future connectivity.

**Reason:** In the interest of permeability and connectivity.

5. The boundary treatment along the Dublin Road shall comprise a low boundary wall with a maximum height of 1.1m, unless otherwise agreed in writing with the planning authority.

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

6. The proposed bin and bike storage located at the western site boundary with the Dublin Road, shall be relocated to the eastern boundary of Apartment Block 2, unless otherwise agreed in writing with the planning authority.

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

7. 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/An Bord Pleanála 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.

8. 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.

9. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall include the area of open space / embankment at the southern site boundary and adjacent to Haggardstown Stream which is located within the blue line boundary. It shall cover a period of at least three years, and shall include details of the arrangements for its implementation.  
**Reason:** To provide for the satisfactory future maintenance of this development in the interest of visual amenity

10. Details of the public cycle track and footpath along Dublin Road shall comply with the detailed standards of the planning authority for such road works, and shall comply, in all respects, with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).  
**Reason:** In the interest of amenity and of traffic and pedestrian safety.

11. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the underground car park shall be in accordance with the detailed construction

standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

12. A minimum of 10% of 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.

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

13. Proposals for an estate name and 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 numbers, shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility

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

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

15. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health and surface water management

- 16 Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

- 18 The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

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



- 19 Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

- 20 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.

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

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

- 22 The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

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

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

- 24 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.

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Elaine Power

Planning Inspector

3<sup>rd</sup> December 2020