



An  
Bord  
Pleanála

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

## Inspector's Report ABP-310418-21

### Strategic Housing Development

Alterations of previously permitted Fingal County Council Register Reference number F16A/0412 (An Bord Pleanála Reference Number PL06F.248970) as amended by F20A/0258 and F221A0046) for 882 no. residential units (135 no. houses and 747 no. apartments), creche and associated site works.

### Location

Lands formerly known as the Coast, Baldoyle, Dublin 13.  
([www.shoreline1shd.ie](http://www.shoreline1shd.ie))

### Planning Authority

Fingal County Council

### Applicant

The Shoreline Partnership.

**Prescribed Bodies**

1. Irish Water
2. Department of Culture, Heritage and the Gaeltacht
3. National Transport Authority
4. Irish Rail
5. Inland Fisheries Ireland
6. Transport Infrastructure Ireland
7. Irish Aviation Authority
8. Department of Education and Skills

**Observer(s)**

1. Alice Smyth
2. Andre Baumann
3. Aoibhin Cassidy
4. Aoife Cannon
5. Carrie Gibbons
6. Cian O'Callaghan
7. David Healy
8. Emma Feehan and John Maguire
9. Emma Spelman
10. John Casey
11. John Scullion
12. Laura Breheny
13. Linda Ayres and Des Smyth
14. Marie T Cummins
15. Marta Dudek
16. Michal Zacharek
17. Michelle Cooke
18. Niamh Gleeson

19. Philip O'Meara and Anna Phillips
20. Sabrina Joyce Kemper
21. Sarah Montague
22. SB Coast Road CLG Management  
company and others (Claire Harris)  
(O'Neill Town Planning)
23. Yvonne Murphy

**Date of Site Inspection**

27 August 2021.

**Inspector**

Stephen Rhys Thomas

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## **1.0 Introduction**

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The application was made by the Shoreline Partnership and received by the Board on 4 June 2021.

## **2.0 Site Location and Description**

- 2.1. The subject site, that has a stated area of 9.1 hectares, and is located on the southern boundary of Fingal County Council administrative area, approximately 8km north-east of Dublin city centre. It is located north west of Baldoyle village, and approximately 6km from Dublin airport. The Dublin-Belfast railway line and Clongriffin DART station abuts the western site boundary. The train line delineates the FCC and DCC boundary. The site is located approximately 650 metres from the Baldoyle Estuary, the River Mayne lies approximately 500 metre to its north.
- 2.2. Lands to the south and east have already been developed on foot of the Baldoyle AAP and this developed area is known as 'The Coast'. Closer to the eastern boundary of the site, more recent housing development is under construction. The area is characterised as an emerging/developing residential and mixed use urban area and is identified in the Baldoyle-Stapolin LAP as one of Dublin's larger new development areas. The site is currently undeveloped, however construction activity is on-going to the east. The site is more or less level and is characterised by waste ground and a large construction compound. The site is at the same level as streets to the east and south, but is at a lower level than the railway line along the western boundary. There are no significant stands of trees or hedgerows and the site boundaries are composed of metal security fencing and construction hoarding.

## **3.0 Proposed Strategic Housing Development**

- 3.1. The proposed development on a site of 9.1 hectares will consist of 882 residential units in 10 apartment blocks and 5 house groups, ranging in height from 2 to 15 storeys, the detail is as follows:

<b>Parameter</b>	<b>Site Proposal</b>
<b>Application Site</b>	9.1 hectares
<b>No. of Units</b>	882 units (747 apartments and 135 houses)
<b>Density</b>	96 units per hectare (gross)
<b>Dual Aspect</b>	340 apartment units (46%) All houses are dual aspect.
<b>Other Uses</b>	Gym – 411 sqm Convenience Store – 915 sqm Medical Centre – 462 sqm Pharmacy – 268 sqm Crèche – 539 sqm (135 spaces) Storage units – 292 sqm Retail/Restaurant/Café – 485 sqm Retail/Restaurant/Café – 112 sqm  Total 3,314 sqm (4.6% of total floor area)
<b>Public Open Space</b>	1.0042 Hectares – 11% of the site
<b>Private Communal Space</b>	7,526 sqm (open space - courtyards)
<b>Residential Amenity Space</b>	1,577 sqm (internal tenant amenity space), Concierge and reception areas, Lounges and collaborative works spaces, Study and games room and Resident support facilities.
<b>Height</b>	2-15 storeys
<b>Parking</b>	818 car parking spaces (368 undercroft, 450 surface)

	1,542 bicycle spaces
<b>Vehicular Access</b>	From existing streets at Myrtle and Red Arches.
<b>Part V</b>	88 (at Blocks D2, B1, C1a, and C2a.)

#### Housing Mix

Unit Type	Studio	1 bed	2 bed	3 bed	Total
<b>Apartments</b>	38	209	439	61	747
<b>% of Total</b>	<b>5%</b>	<b>28%</b>	<b>59%</b>	<b>8%</b>	<b>100%</b>

Unit Type	2 bed	3 bed	4 bed	Total
<b>Houses</b>	7	96	32	135
<b>% of Total</b>	<b>5%</b>	<b>71%</b>	<b>12%</b>	<b>100%</b>

#### Building Heights in detail:

- Block A1 ranging in height from 6 to 8 storeys and containing 101 apartments
- Block A2 ranging in height from 4 to 7 storeys and containing 102 apartments
- Block A3 ranging in height from 4 to 7 storeys and containing 85 apartments
- Block B1 at 3 to 5 storeys and containing 49 apartments
- Block B2 ranging in height from 3 to 5 storeys and containing 39 apartments
- Block B3 at 2 storeys and containing 38 houses
- Block B4 at 2 storeys and containing 36 houses
- Block C1 at 2 storeys and containing 15 houses
- Block C1A at 4 to 6 storeys and containing 43 apartments
- Block C2 at 2 to 3 storeys and containing 17 houses
- Block C2A at 4 to 5 storeys and containing 33 apartments

- Block C3 at 2 to 3 storeys and containing 29 houses
- Block D1 ranging in height from 6 to 9 storeys and containing 118 apartments
- Block D2 ranging in height from 6 to 8 storeys and containing 81 apartments
- Block D3 ranging in height from 5 to 15 storeys and containing 96 apartments

Vehicular and pedestrian access from Myrtle to the south, Red Arches to the east and Station Hill to the west.

The proposed development seeks to alter a permitted planning permission FCC Reg. Ref. 16A/0412, ABP Reg. Ref. ABP-248970, as amended under F20A/0258 and F21A/0046 for 544 residential units (385 apartments and 159 houses) retail and a crèche. The proposed alterations do not apply to blocks C4, C5 and C6 (previously indicated as D1) of the permitted development, which relates to 99 houses currently under construction or the permitted 'The Haggard Park', no changes to surface water attenuation wetlands and associated upstream surface water network, demolition of existing temporary lift and stair enclosure and associated infrastructure to Clongriffin Train Station, Road infrastructure and Utilities infrastructure.

## 4.0 Planning History

### 4.1. Overall Site:

F16A/0412 (PL06F.248970): 10 year permission GRANTED for 546 units (385 aps; 161 houses) on these lands; density 63 units/ha; village centre with 1917 sq.m commercial floorspace including café, shops and crèche; pedestrian access to train station provided across a plaza known as Stapolin Square with steps & ramps; open space of 1.57 hectares at The Haggard to NE of main part of site. Granted on appeal 22 November 2017.

PL06F. 226287 (Reg. Ref. F07A/0040): Permission GRANTED on appeal for 206 apartments and 187 houses, and a crèche, on a site that comprised 5.82ha of the current site. This permission has expired.

PL06F. 224781 (Reg. Ref. F06A/0671): Permission GRANTED on appeal for 412 homes and a neighbourhood centre on a site that included the northern part of the current appeal site. This permission has expired.

#### 4.2. Adjacent Lands

Reg. Ref 311016 (SHD): 1,221 apartments, GA03 Lands at Baldoyle and Stapolin (adjacent lands formerly known as the Coast), Baldoyle, Dublin 13. Decision due 23 November 2021.

#### 4.3. Applications of note on DCC lands (west of train line)

Reg. Ref 305316 (SHD): Permission GRANTED for 916 no. apartments including the loss of 114 units (238 no. residential, 678 no. Build to Rent units), 2 no. crèches, 10 no. retail units and all associated site works. Primarily consisting of 6-7 storeys in height but also include 17 storeys at Block 17 and 15 storeys at Block 26. Density 163 units/ha

Reg. Ref. 305319 (SHD): Permission GRANTED for 500 no. apartments (235 no. residential, 265 no. build to rent), crèche and all associated site works in block of 2 – 8 storeys in height. Density 200 units/ha.

PL29N. 248713 (Reg. Ref. 3634/16): Permission GRANTED for 139 houses and 5 shops, including a tower 16 storeys high. November 2017.

### 5.0 Section 5 Pre Application Consultation

5.1. A Section 5 pre-application consultation with representatives from An Bord Pleanála, the applicants and the planning authority took place on the 14 September 2020 and a Notice of Pre-Application Consultation Opinion issued within the required period, reference number ABP- 307288-20. An Bord Pleanála issued notification that, it was of the opinion, the documents submitted with the request to enter into consultations, constituted a reasonable basis for an application for strategic housing development.

5.2. The prospective applicant was advised that the following specific information was required with any application for permission:

1. Justify the design strategy for the site, regarding height and density and submit a rationale/justification for the heights/densities proposed. Current national guidelines should be referenced, appropriate densities proposed, given the location of the site within the Dublin Metropolitan area, its proximity to Clongriffin DART station and to Baldoyle with its established social and

community services. A material contravention statement (of the statutory plan) may be required.

2. A Materials Strategy that specifically addresses the proposed materials and finishes for buildings, open spaces, paved areas and boundaries, having regard to the requirement to provide high quality and sustainable finishes and details. A Building Lifecycle report should also be submitted in this regard, which includes an assessment of the long term running and maintenance costs associated with the development in accordance with Section 6.13 of the 2018 Guidelines on Design Standards for New Apartments.

3. Details of cycle and pedestrian connections including legibility and permeability through the development site to the train station and other surrounding areas. The matter of 24 hour accessibility to the train station, given the level differences involved, should also be addressed. Landscaping proposals including an overall landscaping masterplan for the development site and details of all street furniture provided.

4. A report which addresses existing and future residential amenity and which includes matters such as daylight/sunlight analysis, micro-climate/wind impacts and noise impacts, together with proposals to address any such impacts, if necessary. A daylight/sunlight analysis, showing an acceptable level of residential amenity for future occupiers and neighbours of the proposed development, should include details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. A month-by-month assessment of average daylight hours within the public open space should be provided within the daylight and sunlight analysis document to allow for a full understanding of the year round level of overshadowing of the primary outdoor recreation areas for the development should be submitted.

5. A housing quality assessment which provides specific information regarding the proposed apartments and which demonstrates compliance with the various requirements of the 2018 Guidelines on Design Standards for New Apartments, including its specific planning policy requirements. This should also include a

schedule of floor areas for all proposed units, clearly setting out the aspect (single, dual, triple) of each unit.

6. Additional transportation details having regard to the requirements of the Transportation Planning Division as contained within section 8.3.7 Access and Transportation of PA Opinion.

7. Additional drainage details having regard to the requirements of the Drainage Division as indicated in their report contained section 8.3.8 Water Services of PA Opinion. Any surface water management proposals should be considered in tandem with any Flood Risk Assessment, which should in turn accord with the requirements of 'The Planning System and Flood Risk Management' (including associated 'Technical Appendices').

8. School Demand and Concentration Report

9. CGIs, visualisations and cross sections, as necessary, which clearly show the relationship between the proposed development and existing development in the immediate and wider area.

5.3. Finally, a list of authorities that should be notified in the event of the making of an application were advised to the applicant and included:

1. Irish Water
2. Department of Culture, Heritage and the Gaeltacht
3. National Transport Authority
4. Irish Rail
5. Inland Fisheries Ireland
6. Transport Infrastructure Ireland
7. Irish Aviation Authority
8. Department of Education and Skills

#### 5.4. **Applicant's Statement**

5.4.1. Subsequent to the consultation under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board's opinion was that the documentation submitted would constitute a reasonable basis for an application for

strategic housing development. Therefore, a statement in accordance with article 297(3) of the Planning and Development (Strategic Housing Development) Regulations 2017, is not required.

## 5.5. Applicant's Material Contravention Statement

- 5.5.1. A Material Contravention Statement has been prepared that sets out the rationale as to why the development could be permitted even when the proposal would represent a material contravention concerning some objectives of the Fingal County Development Plan 2017-2023 (Development Plan), and the Baldoyle-Stapolin Local Area Plan 2013 (Local Area Plan/LAP), specifically relating to:

**Building Height** - Section 4D.4 of the Local Area Plan identifies building heights for the Local Area Plan (LAP) lands and identifies building heights in the range of 2-5 storeys with 'punctuation nodes' for development in this location. The Urban Development and Building Heights – Guidelines for Planning Authorities (December 2018) establish the principle for the re-examination of height limits and should be considered over the Local Area Plan height limits on a site-specific contextual basis.

**Density** - Section 4D.2 of the Local Area Plan sets out a general minimum net density of 35-50 units / ha across the entire site of the Local Area Plan. The Sustainable Urban Housing, Design Standards for New Apartments (2020) establish the principle for the re-examination of density and should be considered over the Local Area Plan densities on a site-specific contextual basis.

**Parking Provision** - Section 12.10 of the Development Plan identifies parking standards for residential development. The Sustainable Urban Housing, Design Standards for New Apartments (2020) establish the principle for the re-examination of car parking provision and should be considered over the Development Plan parking standards on a site-specific contextual basis.

**Unit Mix** - Objective RS 2 of the Baldoyle- Stapolin LAP 2013 states that 'no more than 5% of units in any application or over the whole development, shall be one bedroom units'. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (December 2020) contains SPPRs in relation to dwelling mix requirements, SPPR 1 which takes precedence over any conflicting policies and objectives of Development Plans.

## 6.0 Relevant Planning Policy

### 6.1. National Policy

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the 'Sustainable Residential Development Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme
- The Regulation of Commercial Institutional Investment in Housing May 2021 Guidelines for Planning Authorities

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018.

### 6.2. Project Ireland 2040 - National Planning Framework

The National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which:

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 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-base regeneration and increased building heights.

National Policy Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

### 6.3. **Regional Policy**

Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES) 2019-2031.

MASP Housing and Regeneration policy object RPO 5.4 states that “Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for New Apartments’ Guidelines, and ‘Urban Development and Building Heights Guidelines for Planning Authorities”

RPO 5.5 goes on to identify that “Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall

be supported by a quality site selection process that addresses environmental concerns”

RPO 3.3: Local authorities shall, in their core strategies, identify regeneration areas within existing urban settlements and set out specific objectives relating to the delivery of development on urban infill and brownfield regeneration sites in line with the Guiding Principles set out in the RSES and to provide for increased densities as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for new Apartments Guidelines’ and the ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

#### **6.4. Local Policy - Development Plan**

##### **6.4.1. Fingal County Development Plan 2017-2023**

The subject site is zoned RA ‘new residential’ under the statutory development plan. The objective of RA zoned lands is to ‘provide for new residential communities subject to the provision of the necessary social and physical infrastructure.’, it is an objective to provide for LC – Local Centre the objective of which is to ‘Protect, provide for and/or improve local centre facilities’ at lands adjacent to the rail station.

##### **Table 12.8 Car Parking Standards**

Car parking standards provide a guide as to the number of required off-street parking spaces acceptable for new developments. The principal objective of the application of car parking standards is to ensure that, in assessing development proposals, consideration is given to the accommodation of vehicles attracted to the site within the context of existing Government policy aimed at promoting modal shift to more sustainable forms of transport.

The following will be part of the parking standards:

1. In the case of any use not specified, the Planning Authority will determine the parking requirements, based on similar uses and first principles.
2. Zone 1 relates to developments within 800m of a QBC or high quality bus service, or 1600m of an existing or planned Luas/DART/Metro/Rail station or within an area covered by a Section 49 Scheme, or in lands zoned Major Town Centre. Zone 2 relates to all other areas in the County.

3. In mixed use developments, the car parking requirement will take account of different uses having peak parking demands at different times of the day and week.
4. One space or more per 100 spaces should be reserved for disabled parking bays.
5. One space or more per 100 spaces should be reserved for electric vehicles with charging facilities

Objective BALDOYLE 3 Prepare and/or implement a Local Area Plan for lands at Baldoyle / Stapolin to provide for the strategic development of the area as a planned sustainable mixed use residential development subject to the delivery of the necessary infrastructure.

Daylight, Sunlight & Overshadowing - High levels of daylight and sunlight provide for good levels of amenity for residents. The internal layout of residential units should be designed to maximise use of natural daylight and sunlight. Daylight and sunlight levels, as a minimum, should be in accordance with Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE2011) and British Standard (B.S.). 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or any update on these documents

**Objective DMS30** Ensure all new residential units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and B.S. 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or other updated relevant documents.

#### 6.4.2. **Baldoyle-Stapolin Local Area Plan 2013 (extended to May 2023)**

Section 4D.1 **Housing Mix** - A vibrant, vital, inclusive and mixed new community

Objective RS 1 Require that a suitable variety and mix of dwelling types and sizes are provided in developments to meet different needs, having regard to demographics, social changes and the human life cycle patterns.

Objective RS 2 Ensure that one bedroom dwellings are kept to a minimum within the development and are provided only to facilitate choice for the homebuyer. In any event, no more than 5% of units in any application or over the whole development, shall be one bedroom units.

## Section 4D.2 **Density**, figure 4D.1 and 4D.3 Density and Urban Design

Objective RS 6 Achieve a residential density in keeping with a compact urban form which reflects the character and function of the locality, having regard to the need to make the most efficient use of land and transport investment.

Objective RS 7 Seek to achieve the densities provided for in the Preferred Density Masterplan Figure 4D.1 in order to ensure the population catchment and critical mass necessary to support more services, justify existing and future investment in high quality public transport and community facilities and to generate the conditions for lively streets and open spaces. In any event, a minimum of 38 dwellings per hectare (net density) shall be required in each residential block.

Objective RS 8 Require, generally, a minimum net residential density of 50 units per hectare within the proposed village centre and along the northern boundary with Racecourse Park subject to appropriate design and amenity standards. This will be reflected within the village centre by the provision of between 120 – 190 residential units.

Objective RS 9 Ensure the development of sustainable residential communities through the promotion of innovative, high quality building design and layouts that prioritise non-car based movement and provide for a high level of permeability, accessibility and connectivity to the existing built environment, services and facilities.

## Section 4D.4 **Building Height**

Objective RS 10 Ensure that future residential development proposals are in accordance with the principles set out in the DoEHLG document 'Sustainable Residential Development in Urban Areas 2009 and its companion document 'Urban Design Manual: A Best Practice Guide for Planning Authorities 2009, or any updated version of these documents published during the lifetime of this Plan.

Objective RS 11 Ensure general compliance with the parameters and detail set out in the LAP within Section 5 Urban Design.

Objective RS 12 Require buildings to conform to the heights set out in Figure 4D.2 Building Heights within the LAP lands.

## Section 4E - **Community and Education**

Objective CI 8 Require the development of a childcare facility in the village centre and, where required, a second childcare facility shall be provided within the village centre or other suitable location as deemed necessary by the Planning Authority.

#### Section 4G - Sustainable Development Framework - 4G.2.1 Macro and Micro Climatic Considerations

- Sunlighting: Urban design should be responsive to climatic factors in a manner that conserves the amount of energy used to light and heat buildings and creates sunlit and comfortable public open spaces. As described in the building form, the urban block should be modelled to take account not only of positive orientation but the optimum aspect for day long passive sunlighting of spaces, streets and internal floor plates. Where possible design and layouts should seek to optimise the amount of solar gain in developments, whilst considering other urban design aspirations to provide 'live' frontage to all sides of a block, enabling active streets, supervised and well overlooked spaces.
- Daylighting: Building design should be developed to ensure optimisation of daylighting performance through the avoidance of deep plan building blocks and the provision of wide separating boulevard spaces. Daylight performance should be demonstrated for all development proposals through the use of lighting simulation software to demonstrate Vertical Sky Component (VSC) and Daylight Factor (DF) components.

#### Paragraph 5.12.3 Daylight, Sunlight and Climatic Factors

The range of building volume around individual blocks will need to take into account local climate to optimise comfort of both inside and outside spaces and to facilitate environmental sustainability. The principal factors are the sun and the wind.

In winter intermittent winds blow off the sea to the north east. Positioning the highest buildings to the north along the parkland edge will, to a certain extent, mitigate the effects of the wind over the village shielding building and spaces and maximising solar penetration on the southern aspect.

The height gradient should also be reflected in individual courtyard blocks, with higher buildings generally to the north and lower to the south.

High levels of daylight and sunlight provide for good levels of amenity for residents. The internal layout of residential units should be designed to maximise use of natural daylight and sunlight. Daylight and sunlight levels, as a minimum, should be in accordance with Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.E. 2011) and British Standard (B.S.) 8206 Lighting for Buildings, Part 2 2008: Code of Practice for Daylighting or any update on these documents.

## 7.0 Observer Submissions

- 7.1. 23 submissions were received and relate to a number of common issues that include: that the proposed development is a material contravention of the County Development and LAP and there will be a adverse impact on environmental sensitive areas. Proposed buildings are too tall and density is too great, all of which is out of character with the area and Baldoyle Village in particular. A large population will lead to traffic congestion and oversubscribed rail services and local amenities will not be able to accommodate such growth. Most submissions supported residential development but not at the scale and density proposed. The content of the submissions received can be summarised follows:

### Height, Scale and Density

Proposed height and scale of development bears no relationship to Baldoyle Village. There will be adverse visual impacts to the surrounding area because of the height of buildings proposed. The site is not the right location for higher and taller buildings so NPF objectives cannot be relied upon to defend the development. The density proposed is twice what the guidelines recommend and no employment or mixed use areas are identified. The existing CDP and LAP have taken account of building heights for this location and so the Building Height Guidelines have been complied with by the planning authority regarding SPPR3. The height of proposed buildings could impact on air safety, Dublin airport is located nearby to the west.

Given the local climatic conditions and marine environment, the proposed building finishes and materials will not weather well and result in unsightly buildings. The

inclusion of so many apartments will not overcome Covid restrictions and will make working from home difficult.

More dual aspect units should be provided in line with the existing character of the area. Wind and microclimate analysis does not take account of planned and permitted development in the vicinity.

Daylight analysis is flawed as it does not take into account neighbouring development either planned or existing. Only the first few lower floors are picked out for analysis with the designer choosing what other locations to test.

### Statutory Plan

The proposed development will result in a number of material contraventions of statutory plans. The LAP states 3 – 5 storeys, the proposal is for up to 15 storeys. The LAP allows 35-50 units per hectare, the proposal is for 99 units per hectare. The number of units proposed would exceed that planned for under the core strategy of the statutory plan. A phasing plan has not been submitted, this will result in a large population with none of the services they need.

### Traffic and Transport

The existing DART commuter service cannot support the scale of development proposed. Access to the DART Station is unsafe and antisocial behaviour occurs, in particular the current lift/stairs situation is not appropriate.

The local road network is often congested and cannot support the level of new residential development already in place and permitted. The provision of vehicular access to the site along existing residential roads will be unsafe and cause traffic congestion. The reduced number of car parking spaces will lead to overspill car parking in existing areas, only 0.5 space is allocated to dwellings and this is not enough. The parking and traffic situation will be made worse by schools planned for the area. Buses will not be able to manoeuvre around the narrow roads that are proposed and bus stops are not adequately located.

### Water Services

The local infrastructure cannot support the demands of the proposed development, there are capacity issues in relation to wastewater, existing pump stations overflow into surface water drains and onwards to Natura sites, the AA and EIA do not

engage with this issue. The surface water management and particularly discharge has not been accounted for. Not enough SuDS measures are proposed. The proposed development will add to the flood risk for the area.

### Amenities

There are not enough local facilities such as shops and supermarkets in particular, to cater for the population proposed. The rationale for a single crèche is criticised and not accurately reflecting the local situation regarding childcare demand. Not enough green spaces are proposed. Queries are raised in relation to what is planned for the former racecourse lands. The housing mix and provision of studio apartments will lead to a temporary population that will not add to the local community. Apartment sizes should be larger.

### Impacts to wildlife

The NPWS were not consulted and should have been given the proximity to Natura 2000 sites. An Taisce were not consulted.

### Procedural

Not all questions have been answered on the application form and so information is lacking from the proposal.

## **8.0 Planning Authority Submission**

8.1. The Chief Executive's report, in accordance with the requirements of section 8(5)(a) of the Act of 2016, was received by An Bord Pleanála on the 30 July 2021. The report states the nature of the proposed development, the site location and description, submissions received and details the relevant Development Plan and Local Area Plan policies and objectives. A summary of the views of elected members as expressed at the Area Meeting on 1 July 2021 is appended to the Chief Executive's Report and summarised below.

- Permission should be refused because the development contravenes the Development Plan and Local Area Plan.

- Building height up to 15 storeys is not welcomed, but permission should be granted if heights reduced. The proposed development is out of character with the area. The previous permission should be enacted.
- Dart services need to be increased to cope with increase in population.
- The proposed development lacks the right amount of car parking.
- More apartment units than houses are being proposed, not welcomed. However, the delivery of 110 social/affordable units should be considered.

8.2. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) is summarised as follows.

The planning authority support the principle of a residential development that deviates from the statutory plan in terms of density and height.

Urban Design, Architectural Expression and Layout – the location and design of the 15 storey landmark building at Stapolin Square is acceptable subject to further refinement. The design of Stapolin Square is broadly acceptable; however, the use of lifts is criticised, maintenance and the possibility of antisocial behaviour are key issues. It would be preferable if ramps were used to overcome the level differences to the railway station concourse. Layout changes to C2, C2A and C3 do not go far enough to dispel previous criticisms under F16A/0412 in relation to private amenity, flank walls and visual impact, further refinement is required. In overall terms the design and layout of the scheme is acceptable subject to the amendments discussed above.

Unit Typologies and Mix – a lesser proportion of studio and one-bedroom units should form the dwelling mix, concern is expressed in this regard.

Residential Amenity – the various studies in relation to assessing residential amenity prepared by the applicant are noted. Overlooking would result in the case of blocks C2 and C2A, even though a separation distance of 22 metres is maintained this should be increased to take account that block C2A exceeds three storeys. It would be preferable if blocks C2 and C2A remain as they were previously permitted or increase block C2 to mirror block C2A.

Green Infrastructure – the proposed development would generate a requirement for 5.87 Hectares of Class 1 open space, this should be transferred to FCC by

agreement. The landscape plan is broadly acceptable subject to minor adjustment. A play space is proposed in The Haggard, this area of open space is outside the red line boundary of the site and its delivery is unknown. A phasing plan should be agreed to ensure the delivery of public space/play areas in tandem with completion of units.

Movement and Transport – the proposed development would require 1,408 car parking spaces or a minimum of 1,033 according to the Development Plan, 671 residential spaces are proposed. In addition, the commercial component of the scheme would require 130 car parking spaces, it is thought that the applicant has proposed 103 spaces in this regard, though clarity is required.

The proposal to complete the ramped vehicular access to the station should be amended to remove any development beneath, this will result in the removal of 40 car parking spaces. This is because the ramped road is to be taken in charge by the Council and so no development is permitted below.

The podium car park is not up to the design requirements of IStructE (Institute of Structural Engineers), some spaces are not usable and a revised plan should be submitted to the planning authority.

The contents of the Traffic and Transport Assessment are noted; however, concerns remain in relation to other junctions in the area that were not modelled.

Archaeology – a standard monitoring condition should be attached.

Infrastructure and Services – an FRA was carried out and the mitigation measures proposed are adequate. The surface water management strategy is acceptable. Water supply will come from an existing 300mm watermain and foul water will exit under gravity via a 375mm diameter sewer to the north east of the site. It is noted that a buffer should be provided to the North Fringe Sewer.

AA and EIAR – submission of an NIS and EIAR are noted.

Part V – 88 units are to be provided within blocks D2, B1, C1A and C2A, an appropriate condition should be attached.

Duration of Permission – the parent application as amended was provided with a ten year permission, if granted the time period of permission should be linked back to F16A/0412 as amended.

The planning authority conclude that the proposed development is acceptable subject to 45 conditions some recommending modifications outlined above. Most conditions are standard and of a technical nature and conditions with regards to bonds and contributions are recommended.

### 8.3. **Departmental Reports (Fingal County Council)**

#### Water Services Section

- No objection subject to conditions.

#### Transportation Department

- No objection subject to conditions.

#### Parks and Green Infrastructure Department

- No objection subject to conditions.

#### Housing Department

- No objection.

#### Architects Department

- Comments refer to minor design changes to improve overall architectural quality and visual amenity.

#### Community Archaeologist

- No objection subject to conditions.

#### Bio-Diversity Officer

- No report.

#### Environmental Waste

- No objection subject to conditions.

#### Environmental Health Officer

- No report.

#### Public Lighting

- No report.

#### Community, Culture and Sports Department

- No objection subject to conditions.

## 9.0 Prescribed Bodies

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

1. Irish Water
2. Department of Culture, Heritage and the Gaeltacht
3. National Transport Authority
4. Irish Rail
5. Inland Fisheries Ireland
6. Transport Infrastructure Ireland
7. Irish Aviation Authority
8. Department of Education and Skills

9.2. The applicant notified the relevant prescribed bodies listed in the Board's section 6(7) opinion. The letters were sent on the 4 June 2021. A summary of those prescribed bodies that made a submission are included as follows:

**Irish Water (IW)** - Based on the details provided by the applicant and on the capacity available in IW networks, new connection(s) to the existing network, to service this development are feasible. Technical and standard conditions are recommended if permission is granted.

**Department of Housing, Local Government and Heritage (DAU)** – comments relate to Archaeology and Nature Conservation as follows:

Archaeology - The archaeological component of the Cultural Heritage, Archaeology and Architecture chapter of the Environmental Impact Assessment Report (EIAR) (Vol. 2, Chapter 14) submitted with the above planning application is noted. The proposed archaeological mitigation (EIAR Vol. 2, Section 14.5.1, page 360) measures for archaeological monitoring should be carried out in advance of any construction works as a condition of any grant of planning permission.

Nature Conservation – the planning history of the site is noted and the habitats present on the site are not of ecological importance. The site is approximately 400 m from the Baldoyle Bay Special Area of Conservation (SAC) and circa 700 m from the Baldoyle Bay Special Protection Area (SPA), and there is a direct hydrological pathway from the development site to these Natura 2000 sites via an existing attenuation pond and the Mayne River. The potential for detrimental effects on the QIs of these sites during the construction phase is noted. The supporting Environmental Impact Assessment Report (EIAR), Natura Impact Statement (NIS) and Construction Environmental Management Plan (CEMP) the implementation of standard techniques to prevent the mobilisation of pollutants, together with SuDS the proposed development should not threaten the integrity of the downstream European sites. An appropriate condition that requires the completion of a finalised CEMP is recommended.

**National Transport Authority (NTA)** – relevant transport policies of the NTA Transport Strategy for the Greater Dublin Area, NTA National Cycle Manual and the Baldoyle-Stapolin LAP 2013 are outlined. Relevant upcoming public transport infrastructure includes: DART+ Coastal North project will increase capacity through a variety of improvements, BusConnects Dublin route H1 will enter the Plan lands at Red Arches Road in order to deliver a bus service to the resident population and provide connection to Clongriffin station (some points of clarity are requested in this regard). In terms of Proposed Layout & Integration of Networks, greater clarity is required in relation to safe crossing points at the top of the railway bridge/plaza area and that connection to a north/south cycleway (Objective TM 16 of the LAP) is achieved as a priority. Specific recommendations that should be incorporated into an appropriate condition include:

- The applicant should be requested to provide a safe crossing point at the top of the PT bridge for pedestrians and public transport users to safely crossing to the train station;
- The delivery of the north-south cycle route as indicated on the plans and as per Objective TM 16 of the LAP should be a requirement of the development in the interest of providing a safe and efficient route for sustainable modes; and

- It is recommended that in accordance with Objective TM 17 of the LAP, where the north/south route intersects with other roads that suitable crossing points should be provided to give priority to pedestrians and cyclists. For example there are several crossing point desire lines along Stapolin Avenue, in particular at the junction of Red Arches Road which will also be a bus route.

**Irish Rail** – technical conditions in relation to the maintenance and operation of the railway line are recommended and include boundary specifications and details, access arrangements, surface water management, preservation of existing rail infrastructure and traffic management measures in the area. However, of the 26 items raised by Irish Rail, a number of points raise specific constraints and restrictions as follows:

8) This development should not prevent any future widening of the Public Road by the Local Authority or others.

11) Iarnród Éireann intend to add additional permanent way, signalling and electrification infrastructure on the eastern side of the existing station and approach trackwork as part of the DART+ programme of upgrades.

Correspondence to the developer on 12th February 2020 outlined a required boundary line for this work. A minimum 6.9m clearance from the face of the eastern facing station platform to the permanent boundary retaining wall will be required.

12) A 5m undeveloped corridor on the applicant's side of the boundary will be required to be maintained for construction access by the DART+ works contractor. The applicant should engage with Iarnród Éireann to agree construction staging and sequencing plans.

13) Access to the construction site for DART+ will be required to be maintained to R123 Moyne Road. An existing license agreement between the Applicant and Iarnród Éireann will need to be maintained or updated accordingly.

14) No building shall be constructed within 4m minimum (unless noted otherwise – see item 12) of the Boundary on the applicants' side. This is to allow for the applicant to maintain his / her building, without the need to enter Board Property.

23) The railway operates 24 hours a day with maintenance activity taking place at night and during shut downs of passenger services. The development is in close proximity to the live railway and therefore must take account of the potential noise and vibration impact that an operational railway may have on sensitive receptors. Residential units should be designed, orientated and located to limit the impacts of noise and vibration from transportation traffic and maintenance activities. It is recommended that the Applicant incorporates best practice principles in the design using BS8233 - Guidance on Sound Insulation and Noise Reduction for Buildings. The Applicant must refer to the local authority's Noise Action Plan regarding development adjacent railways and where appropriate carry out a noise risk assessment to inform an Acoustic Design Statement (ADS). The detail of the ADS should be commensurate with the level of risk identified in the noise risk assessment. The Applicant must take responsibility for specifying necessary mitigation measures where noise thresholds are expected to be exceeded. The noise assessment should consider a number of scenarios, including the following:

- within the development with windows closed;
- within the development with windows open; and
- exterior of development within private or communal gardens.

**Inland Fisheries Ireland (IFI)** - adequate measures to control pollution/sediment should be utilised during construction phases and when the development is operational. Works should be in line with a Construction Management Plan. Precautions must be taken to ensure there is no entry of solids, during the connection of pipe-work, or at any stage to the existing surface water system and the Mayne catchment. Mitigation detailed in Section 9.5 of the EIAR should be a condition of any permission.

**Transport Infrastructure Ireland (TII)** – no observations.

**Irish Aviation Authority (IAA)** – that the developer should liaise with DAA/Dublin Airport and the IAA's Air Navigation Service Provider to assess the impact (including the operation of cranes) on Dublin Airport's obstacle limitation surfaces, flight procedures and communication, navigation and surveillance equipment. If permission is granted, an appropriate obstacle lighting scheme for permanent

development should be agreed and notify the bodies above regarding crane erection and operations 30 days in advance.

**Department of Education** - In order to meet an existing projected demographic need, the Department is trying to source a site for a new post-primary school to serve the area. The Department asks that approval is not given to this proposed increase in residential numbers until a suitable school site has been identified, which is needed to serve existing and future residents of the area.

## 10.0 Oral Hearing Request

- 10.1. There is provision within the Act of 2016 to hold an Oral Hearing in respect of a SHD application, section 18 of the Act refers. However, as the intention of the legislation is to fast-track SHD applications, the holding of oral hearings will be the exception. The legislation provides that An Bord Pleanála should have regard to the exceptional circumstances requiring the urgent delivery of housing and only hold a hearing where there is a compelling case for one.
- 10.2. The case made by the observer requesting an oral hearing is based around the possibility of a material contravention of the Fingal County Development Plan and the Local Area Plan in relation to height, density and parking provision. In addition, the observer suggests that there is not the infrastructure to support the scale of development proposed. The applicant has submitted a Material Contravention Statement that addresses the points raised by the observer and numerous other engineering reports and studies that examine infrastructure. These matters and others all form part of the various elements of my assessment throughout this report and I find that the applicant has provided a sufficient amount of detailed analysis to answer any questions I or the Board may have. In addition, I note the thoroughness and detailed consideration provided by the planning authority, statutory consultees and other observers that allows me to be satisfied with the considerable amount of detailed material before me to allow for a reasoned decision to be made by the Board. I do not consider that there is a compelling case to hold a hearing and that the necessary information is held on the file.

## 11.0 Assessment

11.1. 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 the proposed development in the context of the statutory development plan and the local area plan. My assessment also focuses on national policy, regional policy and the relevant section 28 guidelines. In addition, the assessment considers and addresses issues raised by the observations on file, the contents of the Chief Executives Report received from the planning authority and the submissions made by the statutory consultees, under relevant headings. The assessment is therefore arranged as follows:

- Principle of Development
- Material Contravention Statement
- Residential Amenity
- Layout and Design
- Traffic and Transport
- Infrastructure
- Other Matters

### 11.2. Principle of Development

11.2.1. The application site is zoned RA 'new residential' under the Fingal Development Plan. The objective of RA zoned lands seeks to 'provide for new residential communities subject to the provision of the necessary social and physical infrastructure.' Residential is a permissible use in this land use zoning. There is also an objective to provide for LC – Local Centre at lands adjacent to the rail station, the uses proposed (gym, convenience retail, medical centre, pharmacy, childcare facility and other retail/café uses) are all accommodated by this land use zoning objective.

11.2.2. The site also lies within the Baldoyle- Stapolin Local Area Plan (LAP) 2013 (Extended to 2023), the site encompasses Village Centre and Residential Development zoning objectives. Other objectives articulated in the LAP include: village centre-civic space, green corridor and open spaces. There are also specific Map Objectives and these include the creation of a variety of services and uses in

the village centre, provision of a crèche, identification of a new school site north of the village centre subject to requirements.

11.2.3. The proposed development accords with the land use objectives for the area as detailed in the County Development Plan and Local Area Plan. The planning authority acknowledge that the principle of residential and some commercial development at this location is acceptable. In this respect I note that the proposed development seeks permission for a total of 882 dwelling units on a slightly reduced site area that already has permission for 544 dwelling units and part of this permission has already been implemented, with the construction of 99 units, FCC Reg. Ref. 16A/0412, ABP Reg. Ref. ABP-248970, as amended under F20A/0258 and F21A/0046 refers. The proposed development will alter the previous permission, but some parts will remain unchanged such as permitted units at C4, C5 and C6 (houses and duplex units) and Stapolin Park to the north east of the site. The principle of residential and some commercial development at this location is completely acceptable.

11.2.4. There is no opposition to residential development at this location from observers, who acknowledge that residential units and a new village centre was always planned for this area and has already been permitted on the site. I am satisfied that the residential scheme with a commercial component proposed by the applicant will not adversely impact on the objectives of the County Development Plan or LAP for the site. Given the foregoing, I am of the opinion that the proposed development cannot be considered to materially contravene the Development Plan in relation to the zoning of the land and permission could be granted subject to the other considerations and assessments below.

### 11.3. **Material Contravention Statement**

11.3.1. The proposed development seeks to amend a previous planning permission, part of which is already under construction. Elements of this permitted development have been upscaled in the current proposal and the applicant has prepared a material contravention statement that addresses the possibility that the proposed development could materially contravene the Height, Density, Car Parking Provision and Unit Mix objectives of the statutory plans for the area. According to the

applicant's statement the proposed development would contravene the various plans as follows:

- Baldoyle- Stapolin Local Area Plan (LAP) 2013 with regards to the height, density and unit mix parameters set out in the LAP.
- Fingal County Development Plan 2107-2023 with regard to parking provision for apartments.

11.3.2. I address each of these elements in the following sections of my report.

11.3.3. **Building Height** – the applicant recognises that the proposal for taller apartment buildings than previously permitted could materially contravene section 4D.4 of the LAP that identifies a range of upper limits for building heights with opportunity for 'Punctuation Nodes' of increased height within the application site boundary. The limits in the LAP range from 2 to 5 storeys with a number of punctuation nodes. The proposed development includes 2 storey houses as well as apartment blocks more than 3 storeys in height and up to 15 storeys in one case (block D3).

11.3.4. The applicant applies section 28 guidelines to rationalise the taller building elements proposed, and highlights that SPPR1 of the Height Guidelines specifies that there shall not be provision for blanket numerical limitations on building height. Specifically, the proposed development includes apartment blocks A1, A2, A3, C1a, C2a, D1, D2, D3, that exceed the height limits as set out in the Local Area Plan and so the applicant applies the development management criteria contained in section 3.2 of the Height Guidelines.

11.3.5. The planning authority note that the building heights proposed would contravene the LAP in terms of the height strategy for area. Nodal points are marked out for height, though the location of the 15 storey building is not one of those. In addition, the building heights permitted to the west of the railway line are noted, but the subject location could be visually prominent from the coastal area of Baldoyle, an area that is identified as a highly sensitive landscape. Despite these concerns, the planning authority are supportive of the deviation from LAP objectives for the area in terms of height.

11.3.6. Some observers are concerned that the heights proposed could adversely impact upon the character of Baldoyle Village.

11.3.7. In terms of the form and scale of the development proposed I note that the Urban Development and Building Heights Guidelines link building height with achieving higher residential densities. This is clearly set out in a specific planning policy requirement (SPPR 4) as follows:

*It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:*

*1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007)" or any amending or replacement Guidelines;*

11.3.8. The height guidelines state that it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in town/city cores and in other urban locations with good public transport accessibility. The subject site accords with the Apartment Guidelines as a site within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas). The site is therefore a highly accessible site and qualifies as a good location to both increase residential density and in this instance building height. Based on this assumption the applicant makes the case that it is appropriate to contravene the development plan in line with national guidance. Some local observers are not satisfied that it is appropriate to locate taller buildings on the site especially where they will impact upon the historic core of Baldoyle. The planning authority also make the point that the coastal area is a landscape of importance.

11.3.9. The building heights proposed by the applicant range from two storeys to eight/nine storeys with a single 15 storey tall element at Stapolin Square. The taller six to nine storey elements are to be found at the western edge of the site and along the railway line adjacent to Clongriffin DART station. Two and three storey elements are found adjacent to existing residential units at Myrtle and Red Arches and comprise houses, blocks B3/4, C1, C2 and C3 refer. The layout is based around a regular urban grid, opening out at a new square adjacent to the station, with a height that reduces to meet with existing development. I note that section 3.0 of the Building Height

Guidelines set out development management criteria in order to assess the appropriateness of taller buildings at a set location, section 3.2 of the guidelines refer. The following sections of my report assess the proposed development against these criteria as follows:

- 11.3.10. At the scale of the relevant city/town – the site is very well served by public transport with a railway station adjacent to the site, a nearby bus/train interchange and a planned bus route through the site. There are pedestrian/cyclist connections to the wider area. The taller elements of the scheme, up to eight/nine storeys with a 15 storey key point building are located at the western end of the site, close to public transport and around a new square and commercial centre. There are no architecturally sensitive areas or protected landscapes in the immediate vicinity. Baldoyle village and the coastal area are a significant distance to the east beyond existing suburban development and in my opinion has no relationship with this site, the photomontage images prepared by the applicant illustrate this, View 22 and 23 refer. The site is flat and level with no challenging topography to deal with, but buildings have been graduated in height to meet existing houses to the south and east. The proposed development will make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of nearby development. Importantly, the higher buildings and greater density will be focused at an existing railway station and provide a new urban square and ground floor commercial activity.
- 11.3.11. At the scale of district/ neighbourhood/ street – a new street network will be developed, and an improved public realm will result from the scheme. In design terms the overall layout, scale and design of the apartment buildings will not result in long, uninterrupted walls of building in the form of slab blocks. Instead, the design of the apartment buildings has been broken up and materials are well selected and appropriate. The urban design of the entire scheme is well considered and there are no flood risk issues as demonstrated by the findings of the FRA submitted with the application. Overall, the proposal makes a positive contribution to the improvement of legibility through the site and wider urban area. The proposal positively contributes to the mix of dwelling typologies available in the neighbourhood.

11.3.12. At the scale of the site/building - The form, massing and height of the taller elements have been designed to provide adequate levels of daylight and sunlight for future occupants and the design has been sensitively arranged to provide adequate levels of sunlight/daylight to existing neighbouring properties. This has been modelled and demonstrated in the Daylight/Sunlight and Overshadowing analysis carried out by the applicant in accordance with BRE/BS guidelines, this is examined in detail in the following sections of my report.

11.3.13. The applicant has also prepared specific assessments to support the proposals for taller elements at the western end of the site. These assessments include: Architectural Design Report, Landscape and Visual Impact Assessment, Daylight Sunlight and Overshadowing Assessment, Photomontage and CGI images. The subject site falls outside any development plan designations under airport noise zones, noise contours, airport approach areas, public safety zones or other zones identified as necessary for designation in order to maintain or increase the quality of life of neighbouring communities and aviation activities. However, the Irish Aviation Authority (IAA) state that the developer should liaise with DAA/Dublin Airport and the IAA's Air Navigation Service Provider to assess the impact (including the operation of cranes) on Dublin Airport's obstacle limitation surfaces, flight procedures and communication, navigation and surveillance equipment. An appropriate lighting scheme should also be devised for the construction and operational phase of development. In this instance, there are no air navigation concerns in the area, the location of Dublin Airport is over 7 kilometres to the north west. Having regard to the distance from the airport, the relative heights and lack of any specific airport constraints highlighted in the statutory plan or any reason not to permit the development from the IAA, I am satisfied that this is not a material consideration such as would warrant a refusal or redesign of the proposed development. I am satisfied that the location and design of the taller elements of the scheme, with one part of up to 15 storeys at Stapolin Square is acceptable and accords with the requirements of SPPR 3 and crucially the wider strategic and national policy parameters set out in the National Planning Framework and section 28 guidelines.

11.3.14. I conclude that the proposed development would materially contravene the Baldoyle Stapolin Local Area Plan in relation to height, as articulated by section 4D.4, that identifies a range of upper limits for building heights. However, I am

satisfied that the Board can grant permission in accordance with section 37(2)(b) of the Planning and Development Act 2000 (as amended). In terms of section 37(2)(b)(i), the proposed development is in accordance with the definition of Strategic Housing Development and comprises a significant amount of housing units (882) that will deliver on the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016. Also noted in relation to height, the National Planning Framework that highlights National Policy Objectives (NPOs), as follows:

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 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-base regeneration and increased building heights.

This site is just such a case where, subject to performance criteria, taller buildings should be considered.

11.3.15. Finally, and in relation to the Urban Development and Height Guidelines SPPR 3, I have demonstrated by applying the development management criteria set out in section 3.2 of the guidelines that the proposed development will provide an effective mix of 2, 3 and 4-storey development which integrates well into the existing neighbourhood and that 4 storeys or more can be accommodated alongside existing larger buildings and along wider streets, close to a railway station and the creation of a new urban square.

11.3.16. **Residential Density** – The proposed development is for 882 dwelling units (apartments and houses) over a site area of 9.1 hectares, this results in a gross density of 97 dwelling units per hectare (uph), slightly more when the central square is removed from the calculation as per the guidelines (open spaces serving a wider

area). The LAP in Section 4D.2 sets out a general minimum net density of 35-50 units / ha across the entire plan lands. A Preferred Density strategy is set out in Figure 4D.1 of the LAP where density varies between medium and higher density, within a range of 38-80+ units/hectare. The overall site falls within Area A and C, meaning that a medium density of 38-42 uph and high density of between 50-80+ can be accommodated.

11.3.17. The planning authority support the residential density strategy advanced by the applicant. From a good planning perspective, the applicant has pursued a logical and sustainable residential density gradient for the site. I also note that the LAP logically maps out where higher densities should occur and this should happen next to the railway station and around a new urban square/village centre. As the LAP states, within the village centre higher densities are appropriate given its proximity to the train station. Finally, I note that the LAP identifies 50-80+ uph as a preferred density for the central part of the plan lands and in my view the provision of a plus sign indicates that densities can surpass this bar in certain circumstances. The circumstances are outlined by the LAP and relate to good urban design and proximity to the railway station. The limits imposed by the LAP refer to minimum densities as a requirement, in this regard I note Objective RS 7, that states:

Seek to achieve the densities provided for in the Preferred Density Masterplan Figure 4D.1 in order to ensure the population catchment and critical mass necessary to support more services, justify existing and future investment in high quality public transport and community facilities and to generate the conditions for lively streets and open spaces. In any event, a minimum of 38 dwellings per hectare (net density) shall be required in each residential block.

11.3.18. And also, Objective RS 8, that states:

Require, generally, a minimum net residential density of 50 units per hectare within the proposed village centre and along the northern boundary with Racecourse Park subject to appropriate design and amenity standards. This will be reflected within the village centre by the provision of between 120 – 190 residential units.

11.3.19. From the phraseology used by the LAP, I conclude that the provision of 97 uph (gross) or 99 uph (net) as advanced by the applicant would not materially

contravene the development as high residential densities are allowed for by the provision or a range between 50-80+ uph.

11.3.20. **Parking Provision** - Section 12.10 of the Development Plan identifies parking standards for residential development, objective DM113 refers to standards conditioned in table 12.8. The proposed development provides 711 residents' car parking spaces associated with 882 residential units (a provision of 0.54 spaces per unit for the apartments units, and 2 spaces per unit for the houses), included in this figure are 74 parking spaces for visitor/commercial use. According to the planning authority, the quantum of development proposed would generate 1,408 car parking spaces or a minimum practical parking requirement of 1,033 spaces. The planning authority do not form any conclusive view on whether the parking proposed is acceptable or that a material contravention of the development plan occurs. On the whole the planning authority support the proposed development and recommend a number of conditions to clarify or refine the car parking arrangements.

11.3.21. At a minimum the development plan would require 1,033 car parking spaces, the applicant has proposed 711 car parking spaces, I consider this to be a material contravention of development plan objectives to provide the requisite car parking spaces. The applicant states that a parking standard of 0.54 space per apartment unit is acceptable and two spaces per house is appropriate, though below the Development Plan standard, it is in line with the Apartment Guidelines, that would apply to this site. Observers are very concerned that car parking will become a greater problem than it already is, with ad hoc parking because there is such a deficit in car parking spaces to be provided. I address the concerns with regard to parking more specifically in relation to the Traffic and Transport section of my report. However, the proposed development is located immediately adjacent to a heavy rail station with frequent and reliable train services. Bus services are also located nearby and planned for within the overall development, Finally, walking and cycling provision is an integral part of the overall scheme. Taking all of these factors into account the apartment guidelines state that the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria. In this instance, the site is located at an accessible urban location and so car parking provision can be

minimised, substantially reduced or wholly eliminated in certain circumstances. I am satisfied that the proposed development is in line with the advice contained in the Apartment Guidelines with respect to car parking, despite contravening the statutory plan and permission could be granted.

11.3.22. **Unit Mix** – The applicant sets out that Objective RS 2 of the Baldoyle-Stapolin LAP 2013 states that ‘no more than 5% of units in any application or over the whole development, shall be one bedroom units’. The applicant states that the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ (December 2020) contains SPPRs in relation to dwelling mix requirements, SPPR 1 which takes precedence over any conflicting policies and objectives of Development Plans. The unit mix proposed by the applicant is as follows:

- Studios 4 %
- 1 beds 24%
- 2 beds 50%
- 3 beds 18%
- 4 beds 4 %

11.3.23. The planning authority do not definitively state that a material contravention of the development plan occurs but would prefer a lesser proportion of studio apartments. Observers also do not agree with the high proportion of studio and one bedroom apartments, as they see it would not add to a cohesive community in the area.

11.3.24. SPPR 1 of the 2020 Apartment Guidelines looks for a greater mix of units particularly studio, one and two bed units; and that specified mixes in statutory plans should only follow a Housing Need and Demand Assessment (HNDA). An HNDA has not been prepared by the planning authority and so the proposed development includes 28% studio/one bed units, 50% two bed units, 18% three bed units and 4% four bed units, all in accordance with national policy. The planning authority do not oppose the unit mix proposed but would prefer less studio units.

11.3.25. The planning authority do not explicitly state that the unit mix proposed would be a material contravention of the County Development Plan or LAP. Given the

existing character of the area I note the Apartment Guidelines (in relation to the statutory planning framework) discusses the need to facilitate a mix of apartment types that better reflects household demand and formation, SPPR 1 refers:

Housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

11.3.26. In this regard I note no mention that a HNDA has been prepared to date. The proposed development would provide a greater mix of building heights and typologies or unit mix as sought by SPPR 4 of the Height Guidelines. In the context of this site the provision of apartment units between studio/one, two and three bedrooms in format is entirely acceptable. The Apartment Guidelines in relation to unit mix look to a more informed approach (HNDAs), the planning authority have stated a preference and I note that the statutory county plan does not specifically highlight dwelling mix objectives. In this regard I note Objective PM38 of the County Development Plan that seeks to achieve an appropriate dwelling mix, size, type, tenure in all new residential developments. In addition, section 12.4 of the Development Plan under Mix of Dwelling Types states that the mix in any residential scheme should provide a balanced range of dwelling types and sizes to support a variety of household types. Design Statements for residential or mixed use development proposals with a residential element will be required to address the mix of dwelling types. However, as the applicant points out, Objective RS 2 of the LAP states that one bedroom dwellings are kept to a minimum within the development and are provided only to facilitate choice for the homebuyer. In any event, no more than 5% of units in any application or over the whole development, shall be one bedroom units. In my mind there seems to be contrary objectives between the Development Plan and LAP, however, it appears to me that the LAP would be materially contravened. In this instance the proposed development is in accordance with national policy and capitalises on the inherent flexibility shown by the County

Development Plan to provide a mix of dwelling types, but contrary to the LAP. It can be seen that the applicant's unit mix accords with the County Development Plan but not the LAP, but the development meets the requirements of SPPR 1 of the Apartment Guidelines. I am satisfied that the proposed development is in line with the advice contained in the Apartment Guidelines with respect to unit mix, despite contravening the statutory plan and permission could be granted. Additionally, and with respect to the planning application in hand I underline SPPR 4 of the Height Guidelines that seeks a greater mix of building heights and typologies.

11.3.27. The planning authority are generally supportive of the proposed development in terms of height, density and parking provision but would prefer less studio/one bed units. No definitive statement from the planning authority in relation to where their statutory plans are materially contravened is forthcoming. However, I am satisfied that the proposed development would contravene the Baldoyle Stapolin LAP in terms of building height and unit mix, and the County Development Plan in terms of car parking standards.

11.3.28. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.

11.3.29. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.

11.3.30. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.

11.3.31. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows:

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

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

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

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

11.3.32. Should the Board be minded to invoke Article 37(2)(b) in relation to this current proposal, I consider that they can do so, having regard to the relevant criteria contained therein, and as set out below.

11.3.33. In relation to section 37(2)(b)(i), the matter of strategic or national importance, the current application has been lodged under the Strategic Housing legislation and comprises a significant amount of housing units (882) to meet the housing need of the area, and the proposal could therefore be considered to be strategic in nature. Given the site's location within the Baldoyle-Stapolin Local Area Plan, and next to Clongriffin Railway Station, the application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

11.3.34. In relation to section 37(2)(b)(ii), the matter of conflicting objectives in the development plan, I note that Objective PM38 of the County Development Plan seeks to achieve an appropriate dwelling mix, size, type, tenure in all new residential developments, no specific targets are mentioned. However, Objective RS 2 of the

LAP seeks to limit one bed units to no more than 5%, the rigid approach of the LAP is at odds and conflicts with the flexibility of the Development Plan. The statutory plans contain conflicting objectives for dwelling mix, I recommend the Board invoke section 37(2)(b)(ii) of the Act in this instance.

11.3.35. In relation to section 37(2)(b)(iii), regional planning guidelines for the area, I note that the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs and this often results in taller buildings.

11.3.36. I consider the proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35. The proposed development is furthermore in compliance with the Urban Development and Building Height Guidelines in particular SPPR 3, which references section 3.2 Development Management Criteria. I have assessed the proposed development against the section 3.2 criteria of the guidelines in preceding sections above. Despite conflicting objectives in terms of unit mix, I note that in this instance the proposed development meets the requirements of SPPR 1 of the Apartment Guidelines and SPPR4 of the Building Height Guidelines. In terms of car parking provision, I note that the same guidelines advise that car parking provision can be minimised, substantially reduced or wholly eliminated at accessible urban locations, section 4.19 of the Apartment Guidelines refer. Having regard to the provisions of Section 37(2)(b)(iii), it is justified, in my opinion, to contravene the County Development Plan 2017-2023 in relation to car parking provision, and the Baldoyle Stapolin Local Area Plan 2013 in terms of height and unit mix.

11.3.37. In relation to the pattern of development/permissions granted in the area since the adoption of the Development Plan where taller buildings were proposed, I am aware of recent planning permissions for housing and strategic housing granted in the immediate area. For example:

- F16A/0412 (PL06F.248970): 10 year permission 546 units.
- 305316 (SHD): Permission for 916 apartments, primarily consisting of 6-7 storeys in height but also includes 17 storeys at Block 17 and 15 storeys at Block 26. Density 163 units/ha.

- 305319 (SHD): Permission for 500 apartments 8 storeys in height. Density 200 units/ha. Reference number PL29N. 248713 (Reg. Ref. 3634/16): Permission for 139 houses and 5 shops, including a tower 16 storeys high.

11.3.38. The current proposal is similar in height terms to recently permitted development and broadly meets with the planned objectives for the area and so section 37(2)(b)(iv) of the Act could be invoked in this instance.

11.3.39. Section 37(2)(b) of the 2000 Act sets out four criteria, to allow the Board to consider permitting a development that poses a material contravention of the operative plan other than in relation to the zoning of the land. Should the Board be minded to initiate the material contravention procedure, as it relates to Development Plan policies pertaining to car parking and Local Area Plan objectives that relate to building height and unit mix, I consider that the provisions of Section 37(2)(b)(i), (ii), (iii) and (iv) have been met, and in this regard I consider that the Board could grant permission for the proposal.

11.3.40. I am of the opinion that given its zoning, the delivery of residential development on this well located and serviced site, in a compact form comprising well-designed, higher density units and taller buildings comprising apartments would be consistent with policies and intended outcomes of current Government policy. The site is considered to be located in an accessible location; it is within easy walking distance of public transport in an existing serviced area. The proposal seeks to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community. The principle of higher residential densities and taller buildings is considered acceptable. I consider that the proposal does not represent over-development of the site and is acceptable in principle on these lands.

#### 11.4. Residential Amenity

11.4.1. As with any residential scheme, large or small, the residential amenities offered to future occupants and the preservation and protection of existing residential amenities is a very strong consideration. In this context, I firstly assess the proposed development as it refers to future occupants, I apply the relevant standards as outlined in section 28 guidelines, specifically the Sustainable Urban Housing: Design Standards for New Apartments (2020). With respect to the residential amenity for

future residents (proposed residential amenity standards), the planning authority have some concerns that overlooking may be an issue for blocks C2 and C2A. This is to with the design of block C2A a four/five storey apartment building and proximity to block C2, conventional houses. No other concerns with regard to the residential amenity of future occupants is expressed by the planning authority. Observers are also concerned about how daylight/sunlight analysis has been conducted on the site and question why not all units were selected for assessment. The applicant has submitted a variety of architectural drawings, sunlight/daylight analysis, computer generated images and photomontages. I am satisfied that an appropriate level of information has been submitted to address issues to do with residential amenity.

#### Proposed Residential Amenity Standards

- 11.4.2. The proposed development comprises 747 apartments and as such the Sustainable Urban Housing: Design Standards for New Apartments 2020 has a bearing on design and the minimum floor areas associated with the apartments. In this context, the guidelines set out Specific Planning Policy Requirements (SPPRs) that must be complied with. The apartments are arranged in ten distinct blocks, six of the blocks stand on a central podium that provides a slightly sloping central square. The building heights of the apartment blocks mostly range between four and seven storeys, with a notable building of 15 storeys. The applicant states that all of the apartments exceed the minimum area standard. The applicant has also submitted a Schedule of Accommodation and Housing Quality Assessment as part of the Architectural Design Statement, that outlines a full schedule of apartment sizes, that indicates proposed floor areas and required minima. The planning report that accompanies the application, states that the proposed residential units meet or exceed the minimum standards for apartment sizes and that all units are above minimum floor standards and many exceed these standards significantly.
- 11.4.3. In summary, of the apartment units, it is stated that 398 units (53%) exceed the minimum floor area requirement by more than 10%, 340 units (46%) of units are described as dual aspect and all balcony/patio areas meet minimum requirements. I have interrogated the schedule of floor areas presented by the applicant and found these figures to be accurate. I am satisfied that the dual aspect design advanced by the applicant is acceptable and will provide satisfactory apartment units with adequate outlook and private amenity spaces are of a satisfactory size.

11.4.4. Dwelling Mix – In terms of apartment units (a total of 747 units), the proposed development provides 38 studio units (5%), 209 one bed units (28%), 439 two bed units (59%) and 61 three bed units (8%). Specific Planning Policy Requirement 1 of the guidelines state that apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. The amount of one bed units is significantly below the upward amount of 50% allowed for in the guidelines, with 33% of the total proposed development as one bed units and less than 20-25% as studios. I note the concerns raised by the planning authority about studio/one bedroom apartments and that they should be reduced in number. In this respect I note the housing mix objective contained in the LAP and that the proposed development would materially contravene that objective, however, I note that the County Development Plan allows for flexibility in relation to housing mix. In addition, I note the issues raised by observers in relation to studio/one bedroom units and the lack of social cohesion that may result. I am not convinced that the provision of 247 studio/one bedroom units would necessarily unbalance the sense of community that will undoubtedly grow in this new urban area. In my opinion the introduction of studio, one, two and some three bedroom apartment units will satisfy the desirability of providing for a range of dwelling types/sizes, having regard to the character of and existing mix of dwelling types in the area. SPPR 1 is therefore met.

11.4.5. Apartment Design Standards - Under the Apartment Guidelines, the minimum gross floor area (GFA) for a studio apartment (1 person) is 37 sq.m, 1 bedroom apartment (2 person) is 45 sq.m, the standard for 2 bedroom apartment (3-person) is 63 sq.m, the standard for a 2 bedroom (four-person) apartment is 73 sq.m, while the minimum GFA for a 3 bedroom apartment is 90 sq.m, Appendix 1 *Required Minimum Floor Areas and Standards* of the Apartment Guidelines refer. The applicant states that this has been achieved in all cases and has been demonstrated in the Housing Quality Assessment (HQA) for apartments submitted with the application. Having reviewed the HQA, in terms of the robustness of this assessment and in the context of the Guidelines and associated standards, I would accept the applicant's analysis that the apartments are larger than the minimum standards by 10% amount in most of units provided, with all in excess of the minimum. I am satisfied that the proposed

apartments are therefore in excess of the minimum floor area standards (SPPR 3), with very few close to the minimum requirements. Given, that all apartments comprise floor areas in excess of the minimum, I am satisfied that the necessary standards have been achieved and exceeded. In broad terms, I am satisfied that the internal layout and floor areas of the apartments are satisfactory from a residential amenity perspective, SPPR 3 of the guidelines is met.

- 11.4.6. Dual Aspect Ratios – The applicant points out that 340 or 46% of units are dual aspect and that this exceeds the requirement for 33% at more central and accessible urban locations. The planning authority do not make statements in relation to dual aspect. Given the scale and design of the apartment blocks as it has been proposed, I can see that it has been possible to provide a good level of dual aspect units and create an urban character. This has been achieved through relatively short internal corridor lengths and adequate levels of stair/lift cores, the orientation of all units is broadly acceptable. There is a small percentage of single aspect apartment units that face north (5% or 42 out of 747 units), of these most (15 units) are found on the northern elevation of Block C2A. In this case however, the design of the unit incorporates a projection combined with a balcony area to catch west light. The Architect has not designated these particular units as dual aspect and I agree, even though they face north I am satisfied that a good design attempt has been made to make the best of things. I am satisfied that SPPR 4 of the guidelines is met.
- 11.4.7. Floor to ceiling height – the Planning Report that accompanies the application states proposed scheme has ground floor, floor to ceiling heights of 2.7m with all upper floors at 2.4m. I note that cross section drawings also show that some ground floor ceiling heights are 3m and upper floors are 2.525m. This is acceptable and in accordance with SPPR 5 of the guidelines.
- 11.4.8. Lift and stair cores – no more than 12 units are served by a lift/stair core and this is acceptable, SPPR 6 of the guidelines is met.
- 11.4.9. Internal storage space is provided for all apartments at a minimum of 3 sqm (3.2 sqm) and over 9 sqm in other cases. Private amenity spaces exceed the minimum area required by the Apartment Guidelines (5 sqm for a one-bed, 7 sqm for a two-bed unit and 9 sqm for a three bed unit). Areas of unspecified and internalised resident's amenity space are located at the corner of blocks A3 and D3 around the

new village square. These amenity areas amount to 1,577 sqm, but a use for each of the spaces has not been assigned. The overall apartment design takes into account security considerations with good levels of passive surveillance and accessibility to communal areas and amenity space. I note observers raise issue with the provision of lifts at the village centre, the planning authority object to these too. I have my concerns about exactly how lifts would operate, free from antisocial behaviour and I am not convinced that supervision from apartment units would be enough to ensure their safe use and operation, I address this matter in more detail under the design and layout of the overall scheme. Other than that, most of the features that have been provided as part of the overall scheme comply with the advice set out in sections 3 and 4 of the Apartment Guidelines.

11.4.10. Building Lifecycle Report - I note that the Apartment Guidelines, under section 6.13, require the preparation of a building lifecycle report regarding the long-term management and maintenance of apartments. Such a report has been supplied with the planning application and details long term maintenance and running costs. In addition, the guidelines remind developers of their obligations under the Multi-Unit Developments Act 2011, with reference to the ongoing costs that concern maintenance and management of apartments. A condition requiring the constitution of an owners' management company should be attached to any grant of permission.

11.4.11. Overlooking/Privacy - The planning authority have raised an issue in relation to the proximity of some units and privacy concerns, a potential pinch point is identified between apartment block C2A and the rear of housing block C2 to the east. The principal concern is that because block C2A is a four storey block and less than 22 metres from the rear of house block C2, then overlooking could occur. From my examination of the drawings concerned I can see that apartment bedroom windows on the eastern elevation of block C2A will be located more than 19 metres from the first floor windows of house block C2, the distance between windows will increase with upper floors. Balconies located on the northern face of block C2A will be 20 metres or more from the rear elevation of C2. Given the separation distance involved, greater than 19 metres and 22 metres in terms of the southern block C2, the emerging urban context and the good level of urban design achieved by the layout proposed, I am satisfied that overlooking will not be a problematic issue for future residents.

11.4.12. I have considered the interaction and proximity of the units identified by the planning authority and do not consider that any adjustment or amendment is necessary. Given the urban setting and the opportunities for dual aspect that have been taken advantage of by the designer, I am satisfied that the proposal is acceptable and will not compromise residential amenity for future occupants.

11.4.13. The applicant has identified an area (blocks B1 and B2) where privacy may be impacted upon. The semi-private courtyards of B1/B2 are screened from the rear gardens of houses by a small strip of planting or a raised planter with a garden wall of approx. 2m behind. There is a separation distance between the buildings of B1 and B2 to this garden wall of over 20 metres. Given that this view eastwards from blocks B1 and B2 is across rear gardens and not directly overlooking rear elevations of houses, I anticipate no overlooking and loss of privacy issues. All other blocks and housing units are a significant distance apart from each other and/or located across streets or open spaces. At other locations where buildings may be located closer together, such as between blocks D1-3 and A1-3, secondary outlooks face each other more than 12 metres apart or across to blank elevations and stair cores. I see no adverse residential amenity impacts arising from this design.

#### Sunlight/Daylight Analysis – future occupants

11.4.14. Section 6.6 of the Apartment Guidelines and Section 3.2 criteria under the Building Height Guidelines (SPPR 3) refers to considerations on daylight and overshadowing. When taking into account sunlight and daylight analysis the guidelines refer to the Building Research Establishments (BRE) and BS standards/criteria for daylight, sunlight and overshadowing. The applicant has submitted a Daylight/Sunlight Report prepared by O'Connor Sutton Cronin consulting engineers, according to the report, the calculation methodology for daylight and sunlight is based on the British Research Establishments "Site Layout Planning for Daylight and Sunlight: A Good Practice Guide" by PJ Littlefair, 2011 Second Edition. The report sets out to record and analyse the following:

- The daylight levels within the living, kitchen and bedroom areas of selected apartments and houses, to give an indication of the expected daylight levels throughout the proposed development;

- The expected sunlight levels within the living, kitchen and bedrooms areas within the proposed development;
- The quality of amenity space, being provided as part of the development, in relation to sunlight;
- Any potential daylight or sunlight impact the proposed development may have on properties adjacent to the site.

11.4.15. The applicant chose to selectively test habitable rooms throughout the apartment scheme. Observers has called in to question such a methodology and their comments are critical of analysis that does not test all rooms. I note that the applicant has highlighted the rationale for selectively tested rooms for daylight (ADF) and states as follows: In line with common industry approach, units presented at the lower levels have been selected for analysis. Units are selected at the lower levels on the basis that they will receive the lowest levels of daylight due to their location, obstruction and position within the development. Another factor in unit selection is the layout of the apartment. Room depth and location of balconies also play an important role when it comes to daylight penetration within the room. Different types of rooms across the lower levels have been analysed, prioritizing the deep plan and more obstructed rooms. Where units at the lower level achieve the compliance benchmark, it is taken that the same unit type directly above will also achieve the compliance benchmark and therefore, no further modelling is required. Figure 4 of the applicant's report illustrates an example of room selection, within block A1 and figures 6-41 and their accompanying tables detail the findings of all rooms tested. I find this to be an acceptable approach and methodology when dealing with a scheme of this scale.

11.4.16. The applicant's report concludes that of the vast majority rooms assessed exceed the minimum recommendations for the Average Daylight Factor and will be well daylit. Based upon the applicant's calculations, of the 2,017 rooms that comprise the development, only 155 fall short of the BRE Guidelines and BS 8206 recommendations, therefore a 92% compliance rate is achieved across the development. This compliance rate is based upon the use of 2% ADF benchmark but when 1.5% is applied the compliance rate obviously rises to 97.3%.

11.4.17. According to the report, the majority of apartments not only meet but exceed the ADF target set out. The report underlines that the BRE guide states:

*“The advice given here is not mandatory and this document should not be seen as an instrument of planning policy. Its aim is to help rather than constrain the designer. Although it gives numerical guidelines these should be interpreted flexibly because natural lighting is only one of the many factors in site layout design.”*

11.4.18. In this regard I also note that section 3.2 of the Building Height Guidelines allows for flexibility in the application of technical guidance if compensatory design solutions are clearly identified and set out. The applicant states, under section 6.5 of the report, that the kitchen areas will probably only be used for food preparation and that prolonged sitting will take place in the living room area, this together with good outdoor spaces and high quality urban design ensures the best available daylight rates. In terms of building design, the materials selected promote brightness and light and the glazing to wall ratio is to ensure maximum daylight.

11.4.19. In the preceding sections I have summarised the applicant’s approach to assessment of the site in terms of daylight factors. The applicant has utilised the advisory technical guidance such as the BRE documents and this is useful to help determine the impacts of new developments, for future residents. I have considered the report submitted by the applicant and have had regard to BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). Both documents are referenced in the current Fingal Development Plan (DMS30) and section 4G paragraph 5.12.3 of the Baldoyle-Stapolin Local Area Plan 2013 (extended to May 2023), in addition to reference to same in the section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. Whilst I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 ‘Daylight in buildings’), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines and the Fingal Development Plan.

11.4.20. As we shall see the BRE/BS documents are an aid to assist with the evaluation of the daylighting and sunlighting of new developments. In the context of the proposed development and apartments in particular, daylighting is usually assessed by calculating the average daylight factor (ADF), a measure of the amount of daylight in proposed rooms, and it is this test that the applicant's assessment relies on for the proposed apartments. Recommended ADFs (as noted in the BRE/BS guidance documents) are noted as 1% for bedrooms, 1.5% for living/dining rooms and 2% for kitchens, and where the rooms are combined e.g., dining-kitchen room the higher value should be applied. As already noted, the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' describe recommended values to measure daylight, sunlight and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The BRE guidelines state in paragraph 1.6 that:

*“Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”*

11.4.21. Where daylight, as measured by the %ADF is below the target provided for in the technical guidance, the guidance allows for changes to the design (providing extra windows, roof lights or light pipes, or changing room layout) to meet the guidelines, and it is further noted that amenity features such as balconies which may reduce ADF should still be facilitated and their impact on ADF noted. I note that the Building Height Guidelines, similar to the approach taken in the BRE/BS documents, also state that where a proposal may not be able to fully meet all the requirements of the daylight provisions, this can be acceptable, but that where the requirements are not met it must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, and justification for the proposal in this regard must also be set out. I am satisfied that the applicant has done this, and this is considered in my assessment below.

11.4.22. Finally, I note the evolving nature of technical guidance in relation to sunlight/daylight analysis from publications such as: UK code of practice for daylighting BS 8206-2:2008, Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and now a British Standard EN 17037:2018 published May 2019 that deals exclusively with the design for and

provision of daylight within commercial buildings and residential dwellings. Ultimately, I point out that such technical advice provides the basis for design choices and the inclusion of compensatory design solutions. Such choices and opportunities to justify a design approach are also allowed for by section 28 guidance, such as the Building Height Guidelines.

11.4.23. In respect of new dwellings, the standards and guidelines recommend that for the main living spaces/living rooms a minimum average daylight factor of 1.5% is achieved, for bedrooms 1% and kitchens 2% (including 2% for shared kitchen/living spaces). The BS and BRE guidance allow for flexibility with regard to targets and do not dictate a mandatory requirement. The applicant points out that targeting a minimum ADF of 2% in open space kitchen/living rooms, results in significant challenges and difficulty meeting other objectives contained in Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December 2020), such as:

- Amenity spaces: the guidance set out in the Sustainable Urban Housing: Design Standards for New Apartment document states that private amenity spaces shall be provided in the form of balconies at the upper levels. It is also stated that balconies are preferably accessed from living rooms. In order to achieve the 2% in living/ kitchen spaces balcony spaces would need to be removed at the lower floors.
- Floor to ceiling height: in order to achieve an ADF of 2%, the floor to ceiling heights would have to be increased on all levels which would have a planning height impact.
- Solar gains: with the removal of the balconies, increased floor to ceiling height and extensive glazing area there is a risk of overheating within the apartments.

11.4.24. Hence, based on a typical approach and common industry practice the applicant's Assessment has used the minimum values of 1.0% for bedrooms and 1.5% for the Living room spaces and I agree with this approach. In my view the higher kitchen figure of 2.0% is more appropriate to a traditional house layout and room usage, not apartment living and resultant urban design benefits.

11.4.25. The overall design of the apartments includes a kitchen area within living rooms. The report sets out a two-pronged approach to meeting compliance with

BRE/BS guidelines. On one hand the applicant has selected the ADF assessment and target value of 2% for all the main living rooms because they contain a kitchen and this has resulted in 92% compliance rate. In addition, the applicant has applied the 1.5% value for ADF and this increases compliance to 97.3%. In both scenarios the level of compliance is high. As a result, nearly all of the habitable rooms across the floors tested achieve good results, above the minimum target. Some living room/kitchens scored levels of 1% or less and this is related to room design, with kitchen areas located well back and behind walls in some cases, an extreme case would be room C, Block A2 level 02 (figure 12, table 8).

11.4.26. In assessing ADFs within the apartments it is noted that not all apartment rooms were assessed. I am satisfied that this is the norm/accepted practice within the industry. In principle, I accept that that the ADF values improve with the higher the floor level due to increased access to the sky. Of the 151 kitchen/living rooms that fell below 2% and 4 bedrooms at 1%, most only failed to reach the relevant value by a small amount. There were very few kitchen/living rooms that struggled to reach or significantly surpass 1%. These units are located on lower floors and have quite deep and narrow plans, but each have an east or west orientation with good sized balconies. In addition, when combined with selected building materials to reflect light, large area glazing areas with good orientation and outlook, I am satisfied that the compensatory design solutions advanced by the applicant are clearly described and adequate. In this context, I remind the Board that section 1.6 of the BRE 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' allows for flexibility in design as natural lighting is just one factor in overall building design and layout. I am therefore satisfied that the compensatory design measures proposed by the applicant (selected building materials to increase surface reflectance values, large glazed areas, importance of decent balcony space and orientation) more than compensates for the small number of units (8% of apartments tested) that score below the guideline standard outlined for a kitchen (2%).

11.4.27. With that in mind, I am also guided by section 3.2 of the Building Height Guidelines, and I am satisfied that good compensatory design solutions have been proposed and clearly identified by the applicant in the drawings submitted with the application. These compensatory design solutions include: selected building materials to increase surface reflectance values, large glazed areas, importance of

decent balcony space and orientation; and so the penetration of light is satisfactory. In addition, the applicant states that the kitchen areas are for preparing food and that sitting and dining areas are located closer to where light will penetrate sufficiently. In terms of meeting the objectives of good urban design the location and positioning of apartments ensures enlivened streets with good degrees of passive supervision and this is all clearly set out in the Architect's Design Statement. In my view the applicant has achieved tailored design choices that clearly show a balance between site specific constraints and the desirability of achieving wider planning objectives such as securing an effective urban design and streetscape solution. I see no advantage in omitting such a small number of units that do not meet the recommended % ADF target, when it is generally accepted as not being 100% achievable within apartment schemes, in particular for combined living room/kitchen. The Guidelines allow for flexibility for this reason. I would also note that such omissions would significantly adjust the architectural design of apartment blocks that have been directly conceived in response to achieving better urban design outcomes and undo careful compensatory design solutions such as large glazed sections, balcony areas and principal room orientation. All houses receive more than adequate levels of daylight.

- 11.4.28. In terms of sunlight to amenity areas within the development I note that all areas receive the requisite 2 hours of sunshine on March 21<sup>st</sup> with none receiving less, this is acceptable.
- 11.4.29. The report states that order to determine the amount of sunlight that is received by windows within the proposed development, the Annual Probable Sunlight Hours (APSH) calculation method as outlined in BRE Guidelines has been used. All houses receive more than adequate levels of sunlight hours.
- 11.4.30. Section 3.1 of the BRE guidelines outline the factors to consider when designing new development. The results from the analysis prepared by the applicant show that for the annual period, 53% of the analysed windows achieve the recommended APSH values stated in the BRE Guidelines (25%), while 67% of windows achieve the recommended values during the winter months, when sunlight is more valuable. When a relaxed benchmark of 20% and 15% is applied, 61% and 73% of the analysed windows achieve this alternative value, according to the applicant this shows that acceptable levels of sunlight will be achieved across the development. The shortfall in compliance can be attributed to the projection of

balconies and to the north facing windows. I note that there is an inherent flexibility in the BRE/BS guidelines and that it is better to provide good a balcony space and urban design outcomes to balance access to direct sunlight.

#### Existing Residential Amenity

- 11.4.31. The proposed development site has an extant planning permission, some of which is already under construction and complete. The fringes of the site that abut existing residential development have been designed to accommodate mainly two storey houses or three storey corner units. This is to mirror and respect existing neighbouring development. In my view this has been successful and there is little or nothing in the proposed layout that would diminish individual residential amenity for those that already live here.
- 11.4.32. I note that a number of observers have raised concerns that neighbouring development was not taken into account in terms of impact and nor was proposed development. The applicant has prepared a daylight/sunlight analysis that includes an overshadowing study. Section 9.3 of their report refers to daylight impact on neighbouring properties and this includes a layout to show the locations tested for daylight impact, figure 61 on the report refers. I am satisfied that all sensitive receptors, either existing or planned have been assessed, table 49 refers. I note that the impact perceived by the proposed development will be mostly imperceptible to existing residents because the separation distances are just too great. In terms of residential amenity and daylight for future residents as part of planned development to the north, the applicant states that an EIAR and Daylight/Sunlight Assessment has been prepared for that site, ABP-311016-21 refers.
- 11.4.33. Myrtle Avenue is located to the south of the development site and the layout differs little from that permitted in the previous permission. In any case, the proposed development positions a street between the front face of two storey houses and the separation distance will be in excess of 22 meters, this is acceptable and I anticipate no impacts of overlooking or overbearing appearance. Likewise Red Arches Drive to the east of the site sets up a wide green margin and street between existing and proposed houses, a separation distance of over 45 metres will be provided. Streets, footpaths and landscaped margins will separate the front face of each housing block

and I anticipate no significant issues in in terms of overlooking or immediate overbearing appearance.

#### Sunlight/Daylight and Overshadowing – Impact for neighbouring residents

- 11.4.34. To assess the impact on sunlight/daylight/overshadowing on neighbouring property the applicant has prepared a Daylight and Sunlight Assessment, with an overshadowing analysis. BRE guidance suggest that an impact would be felt if a new development is positioned to close to existing development (25° line criteria), section 3.2 of the BRE guidelines refer. The applicant's report assesses the impact from the development on neighbouring residences and applies the 25° line criteria to see if further analysis is required. In most cases further analysis was not required because the separation distances were too great for the 25° line to subtended. Reference area 3 (site under construction) was selected for further analysis in terms of Vertical Sky Component (VSC) and Annual Probable Sunlight Hours (APSH) where necessary. The analysis shows that this location will receive a VSC value above 27% with the proposed development. This is an acceptable level of daylight and will result in an imperceptible impact, figure 62 and table 50 refers. These values accord with the values guided in the BRE documentation; section 3.2.7 of those guidelines refer.
- 11.4.35. In terms of overshadowing, section 9.4 sets out the recommendations of the BRE Guidelines, March 21st has been used to create overshadowing images. In addition, overshadowing images for June and December 21st have also been created to give an indication of the sunlight levels that will be received during the summer and winter months. Figures 63-76 illustrate the overshadowing impact from the development and I can see that the scale of development, orientation and the degree of separation distances involved all result in favourable overshadowing outcomes. There is no one area that suffers from adverse levels of overshadowing, both in terms of existing and planned development.
- 11.4.36. The report also assesses the level of sunlight to public open spaces and shows that good levels of sunlight will be achieved across all communal open spaces during the whole year. The report notes that January, November and December show some open spaces which do not achieve the 2 hours of sunlight on at least 50% of the area, this is normal due to the lower position of the sun during the

winter months. It should be noted that BRE Guidelines set out recommendations for March 21st since this day gives an average level of shadowing for the year, and the proposed development complies. I note the findings made by the applicant with reference to sunlight and public open spaces and agree with their conclusions, the public open spaces are acceptable from a sunlight perspective.

11.4.37. Existing Residential Amenity – Overall Conclusion – the applicant has prepared a large amount of material to support the proposed development. I note that observers do not object to the scheme in principle but highlight that it is the impact from the overall design of development that will be unacceptable to them. There will be no adverse residential amenity impacts to existing residents that neighbour the development site and this has been demonstrated by the applicant's sunlight/daylight report and other supporting material. Development has always been envisaged for the subject site, an extant planning permission that differs little from the proposal scheme demonstrates this. The applicant has proposed a design and layout that seeks to improve on what was permitted, what the statutory plan (LAP) has in store for the site and what recent planning guidelines seek in terms of residential development. I find that there will be no adverse impacts in terms of overlooking and loss of privacy and this is due to the separation distances involved and the urban context of the site. Neither does overbearing impact become a concern because along the site's southern and eastern boundary development has been designed to mirror on what already exists across the street. Contextual elevations submitted with the application illustrate these points. The proposed layout and design of the development is acceptable without amendment.

## 11.5. **Layout and Design**

11.5.1. The proposed development seeks to alter a permitted planning permission FCC Reg. Ref. 16A/0412, ABP Reg. Ref. ABP-248970, as amended under F20A/0258 and F21A/0046 for 544 residential units (385 apartments and 159 houses) retail units and a crèche. The proposed alterations do not apply to permitted blocks C4, C5 and C6 of the permitted development, which relates to 99 houses currently under construction or the 'The Haggard Park', no changes to the surface water attenuation wetlands, demolition of existing temporary lift and stair enclosure and associated infrastructure to Clongriffin Train Station or roads layout. The planning authority note the proposed development really doesn't change anything in terms of layout and

have no significant concerns about the layout and design of the overall proposal. The planning authority are, however, critical of the new village square and the use of lifts/elevators to meet accessibility requirements and note that the 15 storey tall notable building is not located as indicated in the LAP. Observers welcome the delivery of housing but see the current proposal as a significant increase over the previously permitted scheme, with height and density being the primary concern.

11.5.2. Firstly, I have little to criticise about the overall street network and open space hierarchy as it is proposed, mostly because it differs little from what was previously permitted and because it provides a logical urban grid. The layout provides for high density and taller buildings around the train station, and this is logical. In addition, lower scale housing units are placed beside existing housing of a similar scale, and this is logical too. The design of houses and apartments is contemporary in character and building finishes have been carefully selected to be attractive and robust in the long term. I note the planning authority's observations concerning the location of the 15 storey apartment building and I have considered the observer's criticism of height generally. However, I am satisfied that the overall heights proposed around the railway station and the position of Block D3 and its 15 storey height at the entrance to the Village Square from Stapolin Road is appropriate from an urban design perspective.

11.5.3. I find the layout and dimensions of the Village Square (Stapolin Square) to be generous and the commercial uses at ground floor level should enliven the space. The Wind and Microclimate Modelling report prepared by the applicant shows that the new square will be a comfortable place to sit and landscaping will mitigate impacts from taller elements.

11.5.4. My only criticism concerns the applicant's approach to tackling change in level. There is a level difference between Stapolin Road and the train station concourse of 9 metres. The Village Square has therefore been designed to tackle this level change by introducing terraces, slopes, steps (46 steps in total) and two lifts/elevators to enable full accessibility. I note that the previously permitted central square managed to overcome the difference in levels without the need for lifts/elevators. In addition, I note that on the western side of the station, a change in level is overcome with steps (32 steps in total) and switchback ramps from Station Square to Station Way (station concourse). The applicant points out that they had

considered steps and ramps without the use of lifts/elevators but decided that the space would be dominated by ramps and so lifts/elevators were considered the best option. The planning authority are concerned that the lift/elevators would simply not work at this location, citing maintenance issues and possible occurrence of antisocial activity. Observers also criticise the use of lifts/elevators and highlight the fact that the existing station lift is not acceptable, susceptible to antisocial behaviour even when under the supervision of Irish Rail. I find myself in complete agreement with both the planning authority and observers when it comes to reliance on lifts/elevators to provide full accessibility. In this respect I note both the poor condition of the existing lifts/elevators east of the station and the non-operational nature of lifts/elevators to the west at the Park and Ride facility. The applicant maintains that their proposed lifts/elevators will be well maintained by a management company, and the enclosures have been well positioned in the Village Square to ensure passive supervision and security. I cannot comment on the detail of any maintenance regime but I am sceptical that this measure will be effective in practice. In terms of the location of the lift/elevator enclosures, I find them to be too close to residential units, landscaping and other barriers so that antisocial behaviour may well occur at the expense of residential amenity.

11.5.5. In short, I think that the provision of two lifts/elevators within the Village Square is not acceptable and the level difference can be best dealt with by steps and ramps, as it was permitted before and as it is to the west of the rail line. A revised landscaping scheme and design should be submitted by the applicant for approval by the planning authority prior to the commencement of development.

## 11.6. **Traffic and Transport**

11.6.1. The proposed development will provide for the expansion to the street, cycle and footpath network of the area. A vehicular connection will link across the railway line with Clongriffin to the west, a new bus service will use this route. The wider street network will expand northwards as part of future development, a current SHD planning application has been lodged with the Board in this regard, ABP-311016-21 refers. Initially access to the site will be from Grange Road to the south and through the Myrtle housing area and from the R106 (Coast Road) through Red Arches to the east. In time, once the bridge link over the railway is complete cycle/pedestrian access will be strengthened from Clongriffin and a new bus route will traverse

east/west and vice versa. As with the overall objectives contained in the LAP, the area north of the site will open up to development and the further expansion of pedestrian/cyclist connections to the Racecourse Regional Park (partially delivered with further planned delivery by Fingal County Council).

- 11.6.2. The planning authority are supportive of the street network as it is proposed, with minor amendments sought. Observers are not so concerned with the development layout but are unsettled by the level of car parking proposed, that they see as adding to an already disorganised car parking situation in their own streets. The NTA have valuable comments in relation to transport and pedestrian/cyclist facilities and these can be addressed by amendments, such as those in relation to the need for a safe crossing point between the new Village Square and the station concours. Irish Rail have also provided a list of items they see as important in relation to the rail infrastructure adjacent to the site in terms of existing and proposed plans.
- 11.6.3. Car Parking – According to the Traffic Impact Assessment (TIA), the applicant proposes a total of 818 car parking spaces, table 23 of the report highlights the distribution and use of these spaces. 1,542 cycle spaces will also be provided across long term, short term and commercial development requirements.
- 11.6.4. . The planning authority note the shortfall of car parking spaces for such a development. According to their calculations the proposed development would require 1,408 car parking spaces or a minimum of 1,033 according to the Development Plan, they see that 671 residential spaces are proposed. The planning authority require greater clarity in relation to the car parking spaces that would support non-residential uses and do not support parking spaces beneath the proposed ramped street over the railway line. Observers are also critical about the proposed car parking provision and see that a shortfall would lead to overspill parking along their streets.
- 11.6.5. The applicant acknowledges that the amount of car parking spaces (a ratio of 0.55 spaces per unit) provided would be less than that advised by the Development Plan, in response to this a Material Contravention Statement has been prepared in order to allow the Board to consider granting permission. The TIA states that the proposed car parking provision ratio of 0.55 spaces per unit for all apartments in the development is appropriate to the context of the site, in particular given its proximity

to high quality and high frequency public transport services. A reduced car parking provision will also serve to promote and maintain a lower rate of private car use among apartment residents, supporting planning objectives of encouraging a shift to more sustainable modes of transport. The TIA cites planned improvements to the rail network, bus service improvements and cycle/footpath improvements as all factors that can reduce car parking provision in line with the objectives of the Sustainable Urban Housing: Design Standards for New Apartments. In terms of car parking to support non-residential uses, the applicant states that the provision of 107 spaces is only slightly less than the standard provision of 111 spaces demanded by the Development Plan. In this regard the planning authority would like greater clarity in terms of calculation but also point out that they require the removal of 40 car parking spaces below the ramped access street to the railway bridge. This is because according to the Council's 'taking in charge' requirements, no development is permitted beneath a road.

11.6.6. I note the material contravention statement prepared by the applicant in relation to car parking. In this respect I consider that the proposed development falls short of what is required by the Development Plan for a scheme of the scale proposed. However, I am also conscious of how planning policy has changed with respect to car parking and apartment development at highly accessible locations. The site is very well served with existing and planned public transport infrastructure, after all the site is located adjacent to a DART rail station and this is precisely where the higher residential densities are proposed. It would be very wasteful to adhere to Development Plan standard car parking spaces so close to where a large population can access transport on foot. Incidentally, on the day of my site visit I noted the closure of a the large park and ride garage on the western side of Clongriffin DART Station. Irrespective the apartment guidelines state:

“In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such [as] rail and bus stations located in close proximity.”

“These locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.”

11.6.7. This is such a location and I see no advantage to the provision of Development Plan standard spaces when other more suitable and accessible forms of transport are on the doorstep. However, car parking management and a mobility management plan in general will be necessary to ensure future occupants can take full advantage of all transport options available to them. In this respect I note that the applicant has outlined a residential car-share club and car parking management strategy will be developed and this should be completed and agreed with the planning authority before development commences. Though the level of car parking falls way below that required by the Development Plan, the site is highly accessible and in an area where a reduced level of car parking can be considered. I note that fringes of the site accommodate conventional houses and that these are provided with two car parking spaces per unit, a generous allocation. Further in to the centre of the site next to the railway station, where apartments are proposed and where household composition will be smaller, a reduced level of car parking is proposed and this is acceptable.

11.6.8. Junctions Modelled – the planning authority are concerned that some junctions were not modelled in the TIA. In this regard I note that the TIA concludes that the existing junctions modelled closest to the development site (Grange Road and Coast Road) currently operate within their effective capacities on all approaches and will continue to operate within ultimate capacity when the development is completed in 2022; in 2027, 5 years after opening; and in 2037, 15 years after development completion. These are the two most pertinent junctions to consider as they provide provide vehicular access to the site for private motor vehicles and service vehicles. Public service vehicles (buses, taxis, emergency services) will be permitted to use the link over the railway once complete and this will provide access to the wider street network to the west. The TIA has also considered potential future development, section 4.7 refers, and included in the design year sensitivity assessment where junctions 1 and 2 remain within their ultimate design capacities.

- 11.6.9. I am satisfied that an appropriate level of modelling has been provided to rationalise the proposed quantum of development and its likely traffic impacts. It should be reflected that development of these lands was always planned for and the street network formed part of the mapped objectives for the overall area. It should also be noted that the quantum of car parking provided has been significantly reduced and reliance on more sustainable modes of transport will further reduce private car borne journeys. This is an urban site, plugging into streets and junctions that have been designed to accommodate development that has been planned for. I am satisfied that the existing road network can accommodate the quantum of development proposed.
- 11.6.10. Taking in Charge – The applicant states that all surface-level roadways within the development will be taken in charge by the Local Authority. However, footpaths and on-street car parking spaces within the development shall not be taken in charge and shall remain under the control of the Management Company responsible for upkeep of the development's public areas. The planning authority note this intention but are concerned that car parking spaces within the undercroft structure and beneath the ramped street that access the bridge over the railway go against their taking in charge standards.
- 11.6.11. The proposed ramp street will begin immediately to the north Block D and rise westerly turning to the left to run along the western side of Block D between the railway line and connecting to the existing railway station podium. The ramp street will have a maximum gradient of 1:20 and shall be restricted to the use of pedestrians, cyclists, and public service vehicles. This street therefore, will be a surface street and it is anticipated by the applicant that it would be taken in charge. The planning authority disagree and will not take anything in charge that has development that lies beneath it. In addition, the planning authority have a concern about the technical standards in the design of the proposed ramped street and require further clarity.
- 11.6.12. In terms of the technical standards in the design and construction of the ramped street, these can be agreed prior to the commencement of development. A suitable condition can be attached to manage this issue. In terms of the Council's own rules with regard to taking in charge, I do not have enough information before me to make a judgement on that. However, I note that a large car parking garage (a

Park and Ride) lies beneath Bridge Street at Clongriffin on the western side of the railway. I do not know if Bridge Street is taken in charge or not, but I can see that a development has been provided beneath the ramped street (Bridge Street) and it is possible that car parking is provided in the area beneath the ramp where it is feasible, though I cannot say this with certainty. The planning authority's solution is to remove all development from beneath the ramped street, about 40 car parking spaces and this would allow the taking in charge process to progress successfully, if technical design and construction standards are met. The planning authority, however, highlighted that the removal of 40 car parking spaces would further reduce the overall quantum of car parking spaces. I am not so concerned about this aspect of the amendment, as it would further strengthen the achievement of more sustainable methods of transport and align with the objectives of the Apartment Guidelines, where reduced car parking standards are pursued.

11.6.13. It is not an ideal scenario to remove up to 40 car parking spaces to suite the planning authority's own rules about taking in charge. However, I can see the advantage of the proposed ramped street being in Council control, where maintenance standards will be met and most importantly the street would remain open and unhindered to public service vehicles, pedestrians and cyclists. It is in that light that I consider it appropriate to remove car parking spaces R86 to R124 (inclusive) and to relocate Water Tanks for Block D, a revised ground floor layout for Blocks A and D should be submitted for agreement in this regard.

11.6.14. Rail Infrastructure – Observers have noted that existing DART services can be oversubscribed and that the additional population will put a strain on the existing service provision. The applicant points out that there are plans to increase capacity of DART rail services from about 10,500 passengers in the morning peak hour to approximately 15,000 passengers by 2035. The NTA have highlighted that the DART+ Coastal North project will increase capacity through a variety of improvements and measures. In terms of the issues raised by observers, I am satisfied that this is the right location for increased residential density, being a site adjacent to a train station. In addition, the proposed improvements to the public realm in and around the station approaches should make it more attractive for passengers to avail of a good rail service. I can see that the Dart+ Programme will further improve matters, even though plans are at an early stage in the project

timeline with public stakeholder engagement yet to begin, I see no reason why the proposal as it stands shouldn't proceed.

11.6.15. Irish Rail (Track and Structures) have made very detailed and site specific observations that refer to two aspects of the proposed development and rail infrastructure. Firstly, a number of points refer to standard and technical requirements for development close to rail lines such as: boundary treatments, ensuring the safety and security of the rail line during and after construction activity, no restriction of access for Irish Rail staff, preservation of mounds and ditches in the vicinity unless otherwise agreed, that excavations in the track support zone require agreement, crane operations, traffic management and so on. All of these technical requirements are matters that should be agreed between the developer and Irish Rail and so do not impact upon the development as it is proposed. In this respect I note that the Construction Management Plan submitted by the applicant details provisions for works in proximity to the train line.

11.6.16. However, Irish Rail highlight the fact that they intend to add additional permanent way, signalling and electrification infrastructure on the eastern side of the existing station and approach trackwork as part of the DART+ programme of upgrades. A minimum 6.9m clearance from the face of the eastern facing station platform to the permanent boundary retaining wall will be required and the applicant was alerted to this by letter dated 12 February 2020. In addition, a 5m undeveloped corridor on the applicant's side of the boundary will be required to be maintained for construction access by the DART+ works contractor. Other clearance distances are noted, 4m to allow maintenance of property and 2.75m clearance from all Over Head Line Equipment (OHLE) Structures and wires. This means that a significant corridor with no development must be provided. I can see from the drawings submitted by the applicant that a potential future Iarnród Éireann Expansion Boundary has been illustrated, a dashed orange line and also hatched areas shown on ground floor plans. From inspection of a variety of drawings I can see that landscaping, tree planting, part of a street, cycle parking and communal amenity areas all fall within this zone. The usefulness of these areas and facilities should probably be discounted.

11.6.17. For the most part, the developed area of the site will fall outside the zone identified by the drawings prepared by the applicant, however, I am not sure what

agreements are in place that this dashed line or zone should be drawn. For instance I note that the Construction Management Plan suggests that three to four metres is sufficient space for a developer to maintain buildings without the need to encroach or enter CIE/Iarnród Éireann property. Importantly, amenities and facilities are proposed adjacent to blocks C1A and A1, and these appear to fall within the zone demanded by Iarnród Éireann and indicated by the applicant as development free. Of note, is that though the submission prepared by Iarnród Éireann is detailed and site specific it does not state that the overall layout, building lines and boundaries illustrated by the applicant are unacceptable and should be re-arranged. I can see that the buffer zone identified by the applicant in the current proposal match that indicated by the drawings contained in the previous and currently live permission, drawing entitled *Existing permitted site layout plan 1* refers. Planning conditions in relation to rail infrastructure were standard and technical in nature in the Board Order regarding PL06F.248970, conditions 18 and 21 refer Therefore, I am satisfied that a sufficient amount of space has been set aside for an additional permanent way (track) on the eastern side of Clongriffin station.

11.6.18. Finally, Irish Rail have highlighted that the rail line operates twenty-four hours a day and so noise and vibration are issues that should be considered as part of any development proposal. They recommend that the Applicant incorporates best practice principles in the design using BS8233 - Guidance on Sound Insulation and Noise Reduction for Buildings and prepare an Acoustic Design Statement (ADS). This can be addressed by an appropriate condition in the event of a grant of permission.

11.6.19. Cycle and Pedestrian Infrastructure – The proposed development includes footpath and cycle infrastructure with linkages to the surrounding area. It will provide a mix of cycle path types which will enable improved connections with the wider Dublin cycle path network including the Baldoyle to Portmarnock cycle route and public transport at Clongriffin. The cycle network in the wider area is generally good with Fingal County Council nearing completion of a high-quality segregated cycle route from Baldoyle along the R106 Coast Road to Portmarnock which forms part of a longer coastal route. The NTA have raised some technical queries with regard to safe crossing points generally and at the top of the railway bridge/plaza area and

that connection to a north/south cycleway (Objective TM 16 of the LAP) is met, these issues can be addressed by condition.

11.6.20. Aviation – The Irish Aviation Authority (IAA) have made an observation that suggests liaison with DAA/Dublin Airport and the IAA's Air Navigation Service Provider to assess the impact (including the operation of cranes) on Dublin Airport's obstacle limitation surfaces, flight procedures and communication, navigation and surveillance equipment. In this respect I note that the site is located south of the Public Safety Zones associated with either the existing or proposed Northern Runway (under construction) at Dublin Airport. I also note that EIAR did not mention any environmental impacts in relation to Dublin Airport under the Material Assets section of the EIAR. IAA have recommended that an appropriate obstacle lighting scheme for permanent development should be agreed and notify the bodies mentioned above regarding crane erection and operations 30 days in advance of the commencement of works to ensure compliance with its specifications. All of these matters can be addressed by an appropriate condition.

11.6.21. On balance, the proposed development is located at a well-served urban location close to a variety of amenities and facilities, such as schools, playing pitches and a new commercial/retail centres. Current public transport options are excellent with Clongriffin DART station adjacent to the site and bus services nearby. In addition, there are good cycle and pedestrian facilities in the area and the proposed development will add significant improvements to the public realm in this respect. It is inevitable that traffic in all forms will increase as more housing comes on stream. However, I am satisfied that most of the ingredients are in place to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport and this can be achieved by the implementation of the mobility management plan and car parking strategy to be submitted by the applicant.

## 11.7. **Infrastructure**

11.7.1. The applicant has prepared an Engineering Services Report that outlines the infrastructural requirements and proposals for the site. In addition, a Site Specific Flood Risk Assessment, Construction Management Plan and Irish Water Statement

of Design Acceptance, together with detailed drawings and specifications have all been submitted as part of the application.

- 11.7.2. Drainage - The Engineering Services Report submitted with the application outlines in detail the surface water management strategy (storm water infrastructure) proposed for the site. In summary, the existing stormwater drainage network on site will be removed and replaced. A wetland and corresponding upstream surface water network were granted under planning reference F16A/0412 and is currently under construction. All water from the proposed development will discharge to this wetland before discharging to the Mayne River floodplain over a spillway/weir. The shape and orientation of the permitted wetland has been designed to maximise the quantity of treatment provided, with a length to width ratio in excess of 3:1, allowing sediments to settle along its length and complies with GSDS technical requirements. SuDS features have been incorporated into the overall design and layout of the scheme. The planning authority raise no issues and recommend conditions that are of a technical and standard nature. I am satisfied that detailed aspects to do with surface water drainage can be managed by way of an appropriate condition.
- 11.7.3. In terms of water services, I note that Irish Water have stated that there is capacity available in the networks, thus new connection(s) to the existing network to service the development are feasible. I am satisfied that there are no significant water services issues that cannot be addressed by an appropriate condition.
- 11.7.4. Inland Fisheries Ireland (IFI) – made an observation that required adequate measures to control pollution/sediment and these should be utilised during construction phases and when the development is operational. In addition, works should be in line with a Construction Management Plan. Precautions must be taken to ensure there is no entry of solids, during the connection of pipe-work, or at any stage to the existing surface water system and the Mayne catchment. Mitigation detailed in Section 9.5 of the EIAR should be a condition of any permission. I am satisfied that the measures proposed by the applicant are standard and accepted practice when developing an urban project.
- 11.7.5. Flood Risk – The applicant has prepared a Site Specific Flood Risk Assessment, that concludes no risk from fluvial, pluvial or groundwater flooding; also, the SSFRA did

not find any indicators that the proposed development would give rise to flood risk elsewhere. The planning authority raise no issues with regard to flood risk and agree that the mitigation measures proposed in the FRA are sufficient for the purposes of acceptable flood risk.

## 11.8. Other Matters

- 11.8.1. Childcare Facility – I note that observers have criticised the methodology used to select the scale of the childcare facility proposed. The proposed crèche is 539 sqm and will cater for 135 child places. The proposed scheme contains 33% studios and one bed units apartments which is 28% of overall development mix and these can be discounted in the calculation of the requirement for childcare spaces. I note that submission has not been received from the County Childcare Committee and I am satisfied that the applicant's calculation in relation to childcare spaces is reasoned, acceptable and in accordance with the Childcare Guidelines.
- 11.8.2. School Site – Observers have mentioned that the proposed development does not include a school site. I note that a recent SHD permission was granted for over a thousand residential units, condition 2 of that permission required the omission of a block and its reservation as a school site for five years, reference number ABP-305316-19 refers. I also note that the LAP includes an objective for a national school site at the southwestern corner of the LAP lands which is bounded to the west by the rail line, to the south by Grange Road and to the north by the existing development at Myrtle. In addition, the LAP states with respect to secondary school provision, the Department have advised that adequate capacity exists within existing schools to cater for existing and future needs with potential to increase capacity at existing sites if required. Their analysis has confirmed there is no additional land requirement for secondary schools within the LAP area. I am satisfied that that there is no requirement on the applicant to provide a school site on the subject lands.
- 11.8.3. Duration of permission – the planning authority note that the proposed development is an amendment of an existing permission, F16A/0412 (PL06F.248970) refers. It is their wish that if permission is granted for the amendments, then the lifespan of any such permission should match that of F16A/0412 (PL06F.248970), i.e. 22 November 2027. In terms of SHD permissions, I am not inclined to prolong any permission beyond five years. The point of SHD legislation is the speedy delivery of housing. I

see that construction work is well underway in relation to the permitted development. If the Board are minded to grant permission for the current proposal, such a permission would have a lifespan up to September 2026, a sufficient amount of time to complete development.

- 11.8.4. New Section 28 Guidelines – The new guidelines are brief and concern the regulation of commercial institutional investment in certain housing developments of five or more houses and/or duplex units but not those schemes that have ‘build-to-rent’ status. The Regulation of Commercial Institutional Investment in Housing May 2021 Guidelines for Planning Authorities, enables planning authorities and An Bord Pleanála to attach planning conditions that require a legal agreement controlling the occupation of units to individual purchasers, i.e. those not being a corporate entity, and, those eligible for the occupation of social and/or affordable housing, including cost rental housing. In the context of the current planning application that comprises a mixture of houses and apartments/duplexes it is appropriate to attach the relevant condition advised by the recently published guidelines.

## 12.0 Environmental Impact Assessment

### 12.1. Environmental Impact Assessment Report

- 12.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for 882 residential units. Childcare facility and some commercial uses on a site area of 9.1 ha. The site is located within the area of Fingal County Council. A number of the topics and issues raised by observers that concern environmentally related matters have already been addressed in the planning assessment above, however, where relevant I have cross-referenced between sections to avoid unnecessary repetition.
- 12.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

*i) Construction of more than 500 dwelling units*

*iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*

- 12.1.3. The current proposal is an urban development project that would be in the built-up area of a city but not in a business district. It is within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and within the scale of development (more than 500 units) to require an environmental impact assessment and so an EIAR has been submitted with this application.
- 12.1.4. The EIAR comprises a non-technical summary, a main volume and supporting appendices. A summary of the mitigation measures described throughout the EIAR has been prepared and is presented by table 22.1 in Chapter 22 Schedule of Environmental Commitments. Table 1.2 and the introduction to each subsequent chapter describes the expertise of those involved in the preparation of the EIAR.
- 12.1.5. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 12.1.6. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions. I note that there are no specific concerns from observers

regarding the EIAR, however, some observers have raised issues concerning the sheer quantity of paperwork submitted. However, for the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information and this is demonstrated throughout my overall assessment.

## **12.2. Vulnerability of Project to Major Accidents and/or Disaster**

12.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned.

12.2.2. The EIAR addresses this issue under the operational phase under section 5.7 Risk Management of the EIAR. I note that the development site is not regulated or connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances Regulations i.e. SEVESO and so there is no potential for impacts from this source. There are no significant sources of pollution in the development with the potential to cause environmental or health effects. The EIAR states that based upon the consolidated list of national hazards (civil, natural, transportation and technological), the following screening exercise was carried out:

- Civil - The list was screened and risks such as terrorist incidents, animal disease, foodborne outbreaks, crowd safety, civil disorder, could be readily excluded / screened out. Given the presence of COVID-19, infectious disease was screened in, as was critical infrastructure given the proximity of the Dublin - Belfast rail corridor.
- Natural - The list was screened and given the local, regional and national context all natural hazards with the exception of flooding, could be readily excluded / screened out. Given the low-lying nature of the lands and the proximity to the coast, flooding was screened in.
- Transportation - The list was screened and given the local, regional and national context transportation hazards involving road, maritime, and transport hub, could be readily excluded / screened out. Given the location of the lands, rail and air were screened in.

- Technological - Given the local context, which has no upper or lower tier Seveso establishments within consultation distance, and the primarily residential nature of the proposed Project, all technological hazards with the exception of fire, could be readily excluded / screened out. Given the primarily residential nature of the proposed Project, technological hazard involving fire is screened in.

12.2.3. In relation to these factors, the EIAR concluded that some slight or residual risks will remain in relation to civil and transportation hazards. In response control measures will put in place for health and safety and environmental management as per the requirements of this EIAR, the Natura Impact Statement (NIS), the Construction and Environmental Management Plan (CEMP), as well as through any conditions of planning, and application of relevant code of practices and legislation. Residual impacts will be negligible once control, mitigation and monitoring measures have been implemented. The EIAR concludes that design has considered the potential for flooding, road accidents or fire within the design methodology. The vulnerability of the proposed Project to major accidents and / or disasters is not considered significant.

12.2.4. The proposed development is primarily residential in nature and will not require large scale quantities of hazardous materials or fuels. I am satisfied that the proposed use, i.e. residential, is unlikely to be a risk of itself. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

### 12.3. **Alternatives**

12.3.1. Article 5(1)(d) of the 2014 EIA Directive requires:

*(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment;*

Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

*2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.*

12.3.2. Chapter 4 of volume I of the EIAR provides a description of the main levels of alternatives (location, layout/designs, processes and mitigation measures). The variety of different layouts is not illustrated, instead the reader is directed to the detailed analysis of the architectural design strategy provided in the Architectural Design Statement, and the fact that the proposed development is designed to fit around already permitted development. The pre-application consultation process with Fingal County Council was also identified as part of the process to arrive at the finalised layout/design.

12.3.3. The permissible uses on the site are prescribed by its zoning under the development plan. The alternatives that were considered were therefore largely restricted to variations in height, layout and building design and processes. In the prevailing circumstances the overall approach of the applicant was reasonable, and the requirements of the directive in this regard have been met.

#### **12.4. Consultations**

12.4.1. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

#### **12.5. Likely Significant Direct and Indirect Effects**

12.5.1. The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air and climate;

- material assets, cultural heritage and the landscape; and
- the interaction between those factors

## 12.6. Population and human health

- 12.6.1. Population and Human Health is addressed in Chapter 7 of the EIAR. The methodology for assessment is described as well as the receiving environment. Recent economic and demographic trends are examined. The principal findings are that human population and job opportunities will increase as a result of the proposal but also as Covid-19 restrictions ease and people return to work. In terms of human health, the most likely impact will be the construction phase of the development and observers have concerns around construction phase traffic. However, given the control of activity on site by the developer, these can be avoided through the use of management measures as set out in the EIAR and in the preliminary construction management plan submitted with the application, and the imposition of limits by conditions on any grant of permission. Subject to these measures the main significant direct and indirect effects of the proposed development on the environment are addressed, it is concluded that the proposed development would not be likely to have significant adverse effects on human health.
- 12.6.2. Other aspects of the development such as soil and land, water, air quality, noise/vibration, transportation and waste may lead to effects on the local population. In terms of noise/vibration, the occupation of the development would not give rise to any noise or vibration that would be likely to have a significant effect on human health or the population, as it would be a residential scheme that formed part of the built-up area of the emerging city. Emissions from a small amount of commercial development at the centre of the development can be controlled by condition as appropriate. The impact of additional traffic on the noise levels and character of the surrounding road network would be insignificant having regard to the existing traffic levels on roads in the vicinity and the very marginal increase that would occur as a result of the proposed development. This is demonstrated by the Traffic and Transportation Assessment and Mobility Management Plan devised for the scheme that encourages the use of more sustainable forms of transport such as walking and cycling.

12.6.3. Observers have raised issues about the lack of school places. However, the increased population, provision of new open spaces and the demand for such facilities may lead to a further increase in provision. A submission from the Department of Education confirms that they are actively seeking a post-primary site on the LAP lands. In addition, liaison between the planning authority and the Department of Education continually assesses the demand for school places. The provision of additional community infrastructure would further increase the positive effects of new facilities in the area for existing and new residents. In addition, new services give the potential for more people to come together, and this will further contribute to building the sense of place and community. However, pending the planning and delivery of these facilities in the future I am satisfied that the proposed development could proceed in their absence and that this would not result in a significant adverse impact.

12.6.4. I am satisfied that potential effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

#### **12.7. Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

12.7.1. Chapter 8 of the EIAR addresses biodiversity. The biodiversity chapter details the survey methodology of the assessment and fieldwork dates provided in table 8.1. It is noted that an Appropriate Assessment Screening Report and Natura Impact Statement were prepared as a standalone document. As assessed in section 13 of my report, the proposed development was considered in the context of any site designated under Directive 92/43/EEC or Directive 2009/147/EC.

12.7.2. A desk study was undertaken and included review of available ecological data. Ecological surveys were undertaken at the site, field surveys were carried out on numerous occasions between December 2019 and September 2020. A Bat Survey was carried out on the 11 September 2020 and wintering bird surveys were carried out on eight occasions between 18 September 2019 and 24 March 2020. The large majority of the site consists of an area of bare ground that has undergone re-profiling

and enabling works in the past. The site was originally an agricultural field, however site clearance commenced after 2005 and by 2009 the site had been cleared with areas of construction activity, roads and bare ground. Between 2010 and 2018 many areas reverted to recolonization, however, at present c. 50% of the Site comprises recolonised ground and c. 50% is a site compound and haul roads facilitating the construction of housing development to the south of the site. The site does not contribute to biodiversity to any substantial extent. The proposed development would result in the loss of this habitat such as it is, but this would not have a significant effect on the environment. There are no examples of habitats listed on Annex I of the Habitats Directive or records of rare or protected plants. There are no high value treelines and individual mature trees. The site is relatively poor in biodiversity value and no rare or protected habitats were noted.

12.7.3. Section 8.5 of the EIAR describes measures to minimise the impact of the development on habitats and biodiversity that includes the preparation of a Construction Management Plan, for the construction phase of development. The proposed development would introduce areas of new planting, and the landscaping and planting proposals submitted with the proposed application are satisfactory in that context. Having regard to the foregoing, including the concerns raised by the observers, it is not likely that the proposed development would have significant effects on biodiversity. I have considered all of the written submissions made in relation to biodiversity. I am generally satisfied with regards the level of information before me in relation to biodiversity.

12.7.4. Given the present condition of the site, devoid of any great concentrations of flora or fauna, I am satisfied that the development of the site and planned amenity planting provides greater benefits in terms of human health. I draw the Boards attention to the AA section of my report (section 13) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail.

## 12.8. Land, Soil and Geology

12.8.1. Chapter 9 of the EIAR deals with land, soil and geology (hydrogeology) and includes the findings of initial site investigations, as follows: trial pitting, borehole drilling, subsoil sampling, interpretation of chemical data and reporting. According to on site investigations, bedrock was not proven with the deepest borehole (BH17) at the

eastern boundary of the site extending to 8.50mbgl without reaching the underlying limestone bedrock, confirming the GSI vulnerability categorisation as 'Low'. Given the characteristics of the site, soil quality was tested and laboratory analysis did not identify any asbestos containing materials (ACMs) in any of the samples tested.

12.8.2. The construction phase of development will require the removal of the existing topsoil layer, all stripped topsoil will be reused on site (incorporated into landscaping of back gardens, public open spaces and on the podium deck). Subsoil stripping and localised stockpiling of soil will be required during construction. It is estimated that c. 21,093m<sup>3</sup> of soils will be excavated to facilitate construction of the proposed Project. It is estimated that c. 29,329m<sup>3</sup> of clean engineered fill material will be required to facilitate construction. The proposed development would result in the loss of more than 9 Hectares of un-productive waste ground, zoned for residential purposes. Given the extent of such land that would remain available in the overall region, this is not considered to be a significant effect. The proposed development would not require substantial changes in the levels of site. It is therefore unlikely that the proposed development would have significant effects with respect to soil.

12.8.3. I have considered all of the written submissions made in relation to geology and soils. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of land and soils.

## 12.9. **Water**

12.9.1. Chapter 10 of the EIAR deals with Water (Hydrology). The site is predominantly waste ground with large areas of former construction associated activity. According to the EIAR baseline environment description the site is located within the previously defined Eastern River Basin District (ERBD), now the Ireland River Basin District, in Hydrometric Area No. 09 of the Irish River Network. It is within the River Liffey catchment and Mayne Sub-catchment (Mayne\_SC\_010). The Snugborough Stream lies 650m to the east and the Mayne River lies 550m to the north.

### *Surface Water and Flood Risk Assessment*

- 12.9.2. The EIAR states that storm water run-off discharges through an existing 1350mm storm water culvert traversing the site along the line of Longfield Road, flowing south to north. This culvert is a diversion of a culvert which previously ran along the western boundary of the proposed Project lands. There is an existing 1,050mm storm water culvert running from south to north along the line of Stapolin Avenue, which discharges into the Mayne River. There is an existing storm water drainage network located within the site, however due to its poor condition it is not intended to make use of the existing network and therefore it will be removed and a new network constructed in its place. It is proposed to connect the development to the new surface water network granted under F16A/0412 that will cross above the North Fringe Sewer (1,600mm diameter). The overall surface water network has been designed and modelled for the 100 year storm event.
- 12.9.3. The proposed surface water drainage network is designed with SUDS principles and measures such as constructed wetlands, rainwater butts, swales, bio-retention areas, green roofs and permeable paving, forms a single catchments and pass through the existing wetland and overspill a weir/spillway into the Mayne River Floodplain.
- 12.9.4. The application was accompanied by a flood risk assessment that determined the site was located in flood zone C. The proposed project was subject to Site Specific Flood Risk Assessment (SSFRA) in accordance with OPW Flood Risk Management Guidelines, and is included with the planning application. The SSFRA determined that the site is located in flood zone C (low probability for coastal or pluvial flooding). The SSFRA concluded that the proposed project is not at risk from fluvial, pluvial or groundwater flooding; also, the SSFRA did not find any indicators that the proposed project shall give rise to flood risk elsewhere.
- 12.9.5. A potential for an effect to arise during the construction of the proposed development from the emission of sediments or hydrocarbons to surface water is described in section 10.4 of the EIAR. The potential for such effects arises in projects that involve building on suburban infill sites. It is therefore commonplace. There are standard measures that are used to avoid such effects which are described in section 10.5 of the EIAR. The efficacy of such measures is established in practice. Subject to the implementation of those measures, the construction of the proposed development would be unlikely to have significant effects on the quality of water.

### *Water Supply*

12.9.6. The water supply for the proposed development would be from a new connection from the public network which Irish Water advises is feasible. Connection is proposed from an existing 300mm watermain south of the site, an existing 300mm watermain east of the site and also via a connection to a 400mm watermain north of the site.

### *Foul drainage*

12.9.7. It is proposed to drain foul effluent from the proposed development to the public foul sewer, this is outlined in section 10.4.2.2 of the EIAR. The foul water produced by the development will exit via an existing 375mm diameter foul sewer that runs in a northern direction along the eastern boundary of the site. No specific mitigation measures are proposed in relation to foul drainage.

12.9.8. It can be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on water. With regard to cumulative impacts, no significant cumulative impacts on the water environment are anticipated.

12.9.9. I have considered all of the written submissions made in relation to water and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted, any issues of a technical nature can be addressed by condition as necessary.

## **12.10. Air Quality and Climate**

12.10.1. Air Quality and Climate are outlined in chapter 11, noise and vibration are outlined in chapter 12 of the EIAR. Microclimatic factors such as daylight/sunlight and wind are set out in chapters 15 and 16. The proposed apartment units, houses and open spaces would not accommodate activities that would cause emissions that would be likely to have significant effects on air quality, noise or vibration.

12.10.2. There is a potential for dust emissions to occur during construction, but standard means are proposed to mitigate this potential as set out in chapter 22 of the EIAR. They are likely to be effective. The EIAR accounts for the construction phase of the development and recommended measures to ensure air quality is protected. During the operational phase of the development, traffic volumes are modelled and

no significant impact is envisaged. However, the development includes a small number of commercial units that may include air handling units, cafes or gyms for example. I do not anticipate that any significant impacts would arise from these uses because standard conditions concerning noise and odour could be attached in the event of a grant of permission. It is therefore concluded that the proposed development is unlikely to have significant effects on air.

12.10.3. In terms of noise and vibration, this is most likely during the construction phase of development and the likelihood of noise and nuisance from this phase of activity. Impacts to the receiving environment during the construction phase will be mitigated by standard practices and it is not anticipated that the operational phase will result in any noise or vibration issues.

12.10.4. Variation No. 1 of the Fingal Development Plan 2017-2023 outlines revised Noise Zones and policy objectives in relation to aircraft noise from Dublin Airport. Four noise zones (Zone A to D) are now indicated representing potential site exposure to aircraft exposure. The council will actively resist residential development within Zone A, and resist in Zone B and C pending independent acoustic advice and mitigation measures. Certain specific residential developments located in Zone D may be required to demonstrate that aircraft noise intrusion has been considered in the design. The site is located mostly in zone D with a smaller portion located within zone C, to the north. A railway line is located to the west and I note the submission of Irish Rail that refers to the twenty four nature of rail operations on this line and the need to address any issues to do with noise. I note that the noise associated with the proposed childcare facility has been assessed and found acceptable. The EIAR concludes that the residual impacts during the operational phase of development will range from imperceptible to slight.

12.10.5. I have considered all of the written submissions made in relation to air quality and climate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

#### **12.11. Landscape and visual impact assessment**

12.11.1. Chapter 13 outlines landscape and the visual impacts that would arise from the development. The environmental impacts from the proposed development are detailed in the EIAR, to avoid repetition and to be clear, I have assessed in detail the impact of the scale and height of the proposed development on the suburban environs of the site from an urban design and planning context in the planning assessment of my report. The EIAR states that the site has no notable landscape features, comprising a relatively flat topography with a mixture of disturbed ground, grassland and scrub. There are no trees or landscape features worthy of retention and the site makes no positive contribution to local green space or visual amenity for the surrounding neighbourhoods.

12.11.2. The lands are not recorded as a high value landscape but are located within an existing built up area and close to marine/costal environments that have a landscape value. Observers have highlighted strong concerns about the negative visual impact of the development, particularly when compared to Baldoyle Village to the east. The EIAR highlights the construction impacts on the visual amenity of the area and positive impacts of the completed development on the urban consolidation of the city. The layout of the site and positioning of higher buildings towards the railway station to the west together with landscaping proposals and objectives to create a new street network aim to minimise the visual impact of the development. Section 13.5.2 of the EIAR sets out in detail the various design measures used to ensure that the proposed development minimises or avoids potential adverse landscape and visual impacts upon the site and neighbouring residential areas.

12.11.3. The proposed development would change the site from an area of waste ground to a higher density apartment scheme with buildings of up to 15 storeys, together with two storey houses. This would significantly alter its character. The site will change from unused urban infill lands of limited visual quality to a new urban quarter with all of the improvements to public realm that would be expected. The context of the area is already undergoing change. The broad changes that would arise from the proposed development would not have a negative effect on the landscape such as it is. Even the taller elements will have limited visual prominence except from the centre of the development where they will be seen as a consolidating feature on what is otherwise an area with other buildings of similar height and this impact is seen as positive.

12.11.4. I have considered all of the written submissions made in relation to landscape and visual impact and considered in detail the urban design and placemaking aspects of the proposed development in my planning assessment above. From an environmental impact perspective, I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme. That is to say the position of taller elements around a new square and close to the railway station. I am therefore satisfied that the proposed development would have an acceptable direct, indirect and cumulative effects on the landscape and on visual impact.

#### **12.12. Material assets (waste and site services)**

12.12.1. The material assets chapters of the EIAR primarily addresses the impact of the development on the construction phase and local infrastructure, chapters 18 and 19 refer. Material assets such as traffic and transportation are dealt with in chapter 17, and these chapters analysis the local road network and public transport infrastructure.

12.12.2. Observers have raised concerns in relation to the probable increase in traffic, car parking problems and the seemingly oversubscribed existing public transport networks (bus and rail). From an environmental perspective the EIAR addresses these issues individually and I have addressed similar issues under the Traffic and Transport section of my report. The proposed development would not impact upon the operational capacity of road junctions, however, the construction phase would bring additional traffic into the area, this can be managed. Occupiers of the development would place additional demands on public transport and road infrastructure. But this should lead to increased investment in improvement and further provision. No significant impacts are anticipated.

12.12.3. In terms of waste management, the construction and operational phases have been considered, during construction a project specific C&D WMP has been prepared and for the operational phase of development a project specific OWMP has been prepared. In terms of material assets and built services, impacts are considered in relation to water supply, foul and surface wate drainage, gas and telecommunications and the electrical network. Any impacts are seen as neutral, imperceptible and long-term. Cumulative impacts have been considered, including

proposed development in the vicinity of the site. The result is stated to be a long term imperceptible negative cumulative impact on areas such as local traffic. I am satisfied that while some cumulative effects may arise from the proposed development together with existing and permitted developments, these would be avoided, managed and mitigated by the measures which form part of the proposed development and through suitable conditions.

12.12.4. I have considered all of the written submissions made in relation to material assets such as the existing drainage network, traffic and transport. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of traffic and transport or other material assets.

#### **12.13. Cultural Heritage, Archaeology and Architectural**

12.13.1. Chapter 14 of the EIAR describes and assesses with Archaeology, Architectural and Cultural Heritage. The proposed site area has been subject to a series of invasive and non-invasive archaeological investigations since 2000, with little or no evidence for significant finds. Notwithstanding the disturbed nature of the site and the results of the archaeological investigations in the immediately adjacent areas, there is the potential that archaeologically enriched soils, features and deposits may survive subsurface. The chance discovery of isolated (stray) finds may also occur. Ground disturbance works associated with the proposed project will have a negative, moderate, permanent impact on any such remains that survive below ground. No architectural, cultural or industrial heritage impacts were identified in relation to the site.

12.13.2. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme. I therefore consider that the proposed development would have an acceptable level of direct or indirect impacts on architectural and cultural heritage.

## **12.14. The interaction between the above factors**

- 12.14.1. Chapter 20 of the EIAR comprises a matrix of significant interactions between each of the disciplines. All interactions between the various elements of the project were considered and assessed both individually and cumulatively within each chapter. Where necessary, mitigation was employed to ensure that no cumulative effects will arise as a result of the interaction of the various elements of the development with one another.
- 12.14.2. For example; the potential impact on land and soil interacts with that on air due to the need to control dust emissions during ground works and construction. The potential impact of the development on material assets interacts with that on the population due to the provision of a substantial amount of housing for the population. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified. The various interactions were properly described in the EIAR, table 20.1 provides a summary of interactions, and have been considered in the course of this EIA.

## **12.15. Cumulative Impacts**

- 12.15.1. The proposed development could occur in tandem with the development of other sites that are zoned in the area, including the completion of development in the vicinity, tables 21.1 and 22.2 refer. Such development would be unlikely to differ from that envisaged under the county development and local area plans which have been subject to Strategic Environment Assessment. The proposed development's scale may be limited by the provisions of those plans and its form and character would be similar to the development proposed in this application. The actual nature and scale of the proposed development is in keeping with the zoning of the site and the other provisions of the relevant plans. The proposed development is not likely to give rise to environmental effects that were not envisaged in the plans that were subject to SEA. It is therefore concluded that the cumulation of effects from the planned and permitted development and that currently proposed would not be likely

to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

## **12.16. Reasoned Conclusion on the Significant Effects**

12.16.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of urban waste ground to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of most material on the site and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.

- A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

12.16.2. The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. The assessments provided in all of the individual EIAR chapters are satisfactory, I am satisfied with the information provided to enable the likely significant environmental effects arising as a consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

## 13.0 **Appropriate Assessment**

### 13.1. Introduction

13.1.1. This section of my report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Natura Impact Statement (NIS) and Appropriate Assessment Screening prepared by Altamar Marine and Environmental Consultancy, dated May 2021 and submitted with the application.

13.1.2. I have had regard to the submissions of observers in relation to the potential impacts on Natura 2000 sites.

### 13.2. The Project and Its Characteristics

13.2.1. The detailed description of the proposed development can be found in section 2.0 above.

### 13.3. The European Sites Likely to be Affected (Stage I Screening)

13.3.1. The development site is not within or directly adjacent to any Natura 2000 site. The site is located in an area surrounded by existing urban development and residential development currently under construction. The site comprises disturbed wasteland,

being an area of bare ground that has undergone re-profiling and enabling works in the past. According to the EIAR submitted with the application, the majority of the site had been cleared with areas of construction activity, roads and bare ground. At present c. 50% of the site comprises recolonised ground and c. 50% is a site compound and haul roads facilitating the construction of housing development to the south of the site.

13.3.2. I have had regard to the submitted Appropriate Assessment screening section of the applicant's report that identifies a direct source-pathway-receptor link that exists with the proposed project and previously permitted attenuation ponds which are connected to the River Mayne and to the Baldoyle Bay SAC and Baldoyle SPA. The attenuation pond will be in place prior to the commencement of the proposed development and mitigation measures are necessary during the construction of the proposed project to prevent downstream impacts. In addition, the applicant's report identifies a number Natura 2000 sites sufficiently proximate or linked to the site to require consideration of potential effects. These are listed below with approximate distances to the application site indicated:

Site code	Site name	Distance from the site
IE0004016	Baldoyle Bay SPA	700m
IE0004025	Broadmeadow Swords Estuary SPA/ Malahide Estuary SPA*	4.4km
IE0004006	North Bull Island SPA	1.8km
IE0004015	Rogerstown Estuary SPA	10km
IE0004024	South Dublin Bay and River Tolka Estuary SPA	5.5km
IE0004117	Ireland's Eye SPA	4.6km
IE0004113	Howth Head Coast SPA	6km
IE0004069	Lambay Island SPA	11.6km
IE0004172	Dalkey Islands SPA	14km
IE0000199	Baldoyle Bay SAC	400m

IE0000206	North Dublin Bay SAC	1.6km
IE0000205	Malahide Estuary SAC	3.8km
IE0000210	South Dublin Bay SAC	6.8km
IE0003000	Rockabill to Dalkey Island SAC	6km
IE0002193	Ireland's Eye SAC	4.9km
IE0000202	Howth Head SAC	4.5km
IE0000208	Rogerstown Estuary SAC	10.5km
IE0000204	Lambay Island SAC	10.9km

\* Normally described as simply Malahide Estuary SPA, site code 4025.

13.3.3. In addition, the AA screening section of the document outlines through figures 6 to 11 (inclusive), the geographical spread of sites and proximity to the subject site.

13.3.4. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)), as well as by the information on file, including observations on the application made by prescribed bodies and other observers, and I have also visited the site.

13.3.5. I concur with the conclusions of the applicant's screening for AA, in that the only Natura 2000 sites where there is potential for likely significant effects is the Baldoyle Bay SAC (0199) and SPA (4016) as a result of a direct hydrological pathway via the existing attenuation and Mayne River.

13.3.6. Significant impacts on the remaining SAC and SPA sites are considered unlikely, due to the distance and the lack of hydrological connectivity or any other connectivity with the application site in all cases. As such, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites:

- Malahide Estuary SAC
- North Dublin Bay SAC
- Rogerstown Estuary SAC
- South Dublin Bay SAC
- Rockabill to Dalkey Island SAC
- Ireland's Eye SAC
- Howth Head SAC
- Lambay Island SAC
- Broadmeadow Swords Estuary SPA/ Malahide Estuary SPA\*
- North Bull Island SPA
- Rogerstown Estuary SPA
- South Dublin Bay and River Tolka Estuary SPA
- Ireland's Eye SPA
- Howth Head Coast SPA
- Lambay Island SPA
- Dalkey Islands SPA

\* Normally described as simply Malahide Estuary SPA, site code 4025.

13.3.7. The qualifying interests of all Natura 2000 Sites considered are listed below:

Table of European Sites/Location and Qualifying Interests

<b>Site (site code) and Conservation Objectives</b>	<b>Distance from site (approx.)*</b>	<b>Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)</b>
Baldoyle Bay SAC (0199) To maintain or restore the favourable conservation condition of habitats as	700m	Mudflats and sandflats not covered by seawater at low tide [1140] Salicornia and other annuals colonising mud and sand [1310]

listed in Special Conservation Interests.		Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) [1330] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410]
Baldoyle Bay SPA (4016) To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.	400m	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Shelduck ( <i>Tadorna tadorna</i> ) [A048] Ringed Plover ( <i>Charadrius hiaticula</i> ) [A137] Golden Plover ( <i>Pluvialis apricaria</i> ) [A140] Grey Plover ( <i>Pluvialis squatarola</i> ) [A141] Bar-tailed Godwit ( <i>Limosa lapponica</i> ) [A157] Wetland and Waterbirds [A999]
North Dublin Bay SAC (0206) To maintain or restore the favourable conservation condition of habitats as listed in Special Conservation Interests.	1.6km	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows ( <i>Glauco-Puccinellietalia maritimae</i> ) [1330] Mediterranean salt meadows ( <i>Juncetalia maritimi</i> ) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]
North Bull Island SPA (4006) To maintain or restore the favourable conservation	1.8km	Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) [A046] Shelduck ( <i>Tadorna tadorna</i> ) [A048] Teal ( <i>Anas crecca</i> ) [A052] Pintail ( <i>Anas acuta</i> ) [A054]

<p>condition of the bird species and habitats listed as Special Conservation Interests.</p>		<p>Shoveler (<i>Anas clypeata</i>) [A056]  Oystercatcher (<i>Haematopus ostralegus</i>) [A130]  Golden Plover (<i>Pluvialis apricaria</i>) [A140]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]  Knot (<i>Calidris canutus</i>) [A143]  Sanderling (<i>Calidris alba</i>) [A144]  Dunlin (<i>Calidris alpina</i>) [A149]  Black-tailed Godwit (<i>Limosa limosa</i>) [A156]  Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]  Curlew (<i>Numenius arquata</i>) [A160]  Redshank (<i>Tringa totanus</i>) [A162]  Turnstone (<i>Arenaria interpres</i>) [A169]  Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]  Wetland and Waterbirds [A999]</p>
<p>South Dublin Bay and River Tolka Estuary SPA (4024)</p> <p>To maintain or restore the favourable conservation condition of the bird species and habitats listed as Special Conservation Interests.</p>	<p>5.5km</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]  Oystercatcher (<i>Haematopus ostralegus</i>) [A130]  Ringed Plover (<i>Charadrius hiaticula</i>) [A137]  Grey Plover (<i>Pluvialis squatarola</i>) [A141]  Knot (<i>Calidris canutus</i>) [A143]  Sanderling (<i>Calidris alba</i>) [A144]  Dunlin (<i>Calidris alpina</i>) [A149]  Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]  Redshank (<i>Tringa totanus</i>) [A162]  Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]  Roseate Tern (<i>Sterna dougallii</i>) [A192]</p>

		<p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
<p>South Dublin Bay SAC (0210)</p> <p>To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide.</p>	6.8km	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>
<p>Malahide Estuary SAC (0205)</p> <p>Conservation objective:</p> <p>To maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide.</p>	3.8km	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
<p>Malahide Estuary SPA (4025)</p> <p>To maintain the favourable conservation condition of Great Crested Grebe.</p>	4.4km	<p>Great Crested Grebe (<i>Podiceps cristatus</i>) [A005]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Goldeneye (<i>Bucephala clangula</i>) [A067]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p>

		<p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>
<p>Rogerstown Estuary SAC (0208)</p> <p>To maintain the favourable conservation condition of Estuaries.</p>	10.5km	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p>
<p>Rogerstown Estuary SPA (4015)</p> <p>To maintain the favourable conservation condition of Greylag Goose.</p>	10km	<p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p>

		Black-tailed Godwit ( <i>Limosa limosa</i> ) [A156] Redshank ( <i>Tringa totanus</i> ) [A162] Wetland and Waterbirds [A999]
Howth Head SAC (0202) To maintain the favourable conservation condition of European dry heaths and Vegetated sea cliffs of the Atlantic and Baltic coasts.	4.5km	Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] European dry heaths [4030]
Howth Head Coast SPA (4113) To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests.	6km	Kittiwake ( <i>Rissa tridactyla</i> ) [A188]
Rockabill to Dalkey Island SAC (0300) To maintain the favourable conservation condition of Reefs and Harbour porpoise.	6km	Reefs [1170] <i>Phocoena phocoena</i> (Harbour Porpoise) [1351]
Ireland's Eye SAC (2193) To maintain the favourable conservation condition of Perennial vegetation of stony banks and Vegetated sea cliffs	4.9km	Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]

of the Atlantic and Baltic coasts.		
Ireland's Eye SPA (4117) To maintain or restore the favourable conservation condition of the bird species.	4.6KM	Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Herring Gull ( <i>Larus argentatus</i> ) [A184] Kittiwake ( <i>Rissa tridactyla</i> ) [A188] Guillemot ( <i>Uria aalge</i> ) [A199] Razorbill ( <i>Alca torda</i> ) [A200]
Lambay Island SAC (0204) To maintain the favourable conservation condition of Reefs, Vegetated sea cliffs of the Atlantic and Baltic coasts, Grey Seal and Harbour Seal.	10.9km	Reefs [1170] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Halichoerus grypus (Grey Seal) [1364] Phoca vitulina (Harbour Seal) [1365]
Lambay Island SPA (4069) To maintain or restore the favourable conservation condition of the bird species.	11.6km	Fulmar ( <i>Fulmarus glacialis</i> ) [A009] Cormorant ( <i>Phalacrocorax carbo</i> ) [A017] Shag ( <i>Phalacrocorax aristotelis</i> ) [A018] Greylag Goose ( <i>Anser anser</i> ) [A043] Lesser Black-backed Gull ( <i>Larus fuscus</i> ) [A183] Herring Gull ( <i>Larus argentatus</i> ) [A184] Kittiwake ( <i>Rissa tridactyla</i> ) [A188] Guillemot ( <i>Uria aalge</i> ) [A199] Razorbill ( <i>Alca torda</i> ) [A200] Puffin ( <i>Fratercula arctica</i> ) [A204]
Dalkey Islands SPA (4172) To maintain or restore the favourable conservation	14km	Roseate Tern ( <i>Sterna dougallii</i> ) [A192] Common Tern ( <i>Sterna hirundo</i> ) [A193] Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]

condition of the bird species.		
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\* Normally described as simply Malahide Estuary SPA, site code 4025.

13.3.8. The Table above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration, also note Table 2 contained within the applicant's report.

13.4. Potential Effects on Designated Sites

13.4.1. The subject site itself is not suitable for regularly occurring populations of wetland or wading birds which may be associated with Natura 2000 sites listed above, as these birds are associated with coastal and intertidal habitats. While there are some species that utilise inland amenity grassland sites for feeding, there is no amenity grassland on the subject site, and therefore no habitats suitable for such species associated with the proposed development.

13.4.2. The proposed development site has a direct hydrologically connection to the Baldoyle Bay SAC (0199) and SPA (4016) via an attenuation pond onwards to the Mayne River. There is also an indirect pathway from the site through the foul sewer to Dublin Bay via the Ringsend Wastewater Treatment Plant (WWTP), connecting to North Dublin Bay SAC (0206); North Bull Island SPA (4006); South Dublin Bay and Tolka Estuary SPA (4024); and South Dublin Bay SAC (0210).

13.4.3. The specific conservation objectives and qualifying interests of the potentially effected SAC sites relate to habitat area, community extent, community structure and community distribution within the qualifying interest. There are no objectives in relation to water quality. The specific conservation objectives for the bird species highlighted for the potentially effected SPA sites relate to maintaining a population trend that is stable or increasing, and maintaining the current distribution in time and space.

13.4.4. The proposed drainage strategy is compliant with the Greater Dublin Strategic Drainage Study (SuDS). In this instance the SuDS measures to be incorporated are not included to avoid or reduce an effect to a Natura 2000 Site, and therefore they should not be considered mitigation measures in an AA context. However, the applicant makes the point that surface water runoff will comply with SUDS and will

discharge to the existing attenuation pond that leads to the Mayne River. Mitigation measures will be required to ensure that water quality is maintained prior to discharging to watercourses. Thus, as a result of these measures, the risk to water quality during the construction phase on the Baldoyle Bay SAC/SPA should be considered, other sites can be excluded because of the separation distances involved, lack of direct connections and any dilution factors that might arise. As extensive works are planned in association with the proposed development and in close proximity to open water courses, following a precautionary approach, the potential for large quantities of silt or other construction pollutants to be washed downstream means that significant effects to the Baldoyle Bay SAC/SPA cannot be ruled out.

13.4.5. Foul effluent from the proposed development will be sent to the Ringsend WWTP and currently emissions from the plant are not in compliance with the Urban Wastewater Treatment Directive. The Ringsend WWTP has been granted permission under section 37G of the Planning and Development Act 2000 (Board Order ABP-301798-18), 10-year permission for development comprising revisions and alterations to the existing and permitted development at the Ringsend Wastewater Treatment Plant and for a new Regional Biosolids Storage Facility, being two components of an integrated wastewater treatment facility. These works will bring the capacity of the Wastewater Treatment Plant from its current 1.9 million PE to 2.4 million PE. Evidence also suggests that in the current situation, some nutrient enrichment is benefiting wintering birds for which the SPAs have been designated in Dublin Bay. Overall, no negative impacts to the Natura 2000 sites can arise from additional loading on the Ringsend WWTP as a result of the proposed development, as there is no evidence that negative effects are occurring to SACs or SPAs from water quality.

### 13.5. AA Screening Conclusion

13.5.1. The site is situated between 400 and 700 metres away from the SAC and SPA Natura 2000 Sites at Baldoyle Bay. I conclude that the impacts as described above cannot be ruled out, and if they occurred, would be significant given the hydrological link and proximity to these Natura 2000 sites. As such likely effects on Baldoyle Bay SAC (0199) and SPA (4016), cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

13.5.2. In relation to SAC and SPA areas at Dublin Bay, taking into consideration the effluent discharge from the proposed development works, the distance between the proposed development site to these designated conservation sites at Dublin Bay, the lack of direct hydrological pathway or biodiversity corridor link to these conservation sites at Dublin Bay and the dilution effect with other effluent and surface runoff, it is concluded that this development that would not give rise to any significant effects to the designated sites at Dublin Bay. The construction and operation of the proposed development will therefore not impact on the conservation objectives of features of interest of North Dublin Bay SAC (0206); North Bull Island SPA (4006); South Dublin Bay and Tolka Estuary SPA (4024); and South Dublin Bay SAC (0210).

### 13.6. Stage 2 – Appropriate Assessment

13.6.1. Baldoyle Bay is described in detail in the submitted AA Screening Report. It is an estuary of the Sluice and the Mayne Rivers that is largely enclosed by a sand spit that stretches from Portmarnock to Howth. At low tide it has large areas of exposed mud and sediment that support rich invertebrate communities. The Qualifying Interests/Special Conservation Interests of the Baldoyle Bay SAC (0199) and SPA (4016) are described above and in table 3 and 6 of the applicant's NIS

13.6.2. The Natura Impact Statement (NIS) submitted with the application provides a description of the site-specific conservation objectives for the Baldoyle Bay SAC and SPA as follows:

For Baldoyle SPA - Objective 1 is 'To maintain the favourable conservation condition of the non - breeding waterbird Special Conservation Interest species listed for Baldoyle Bay SPA'. This objective is defined by the following attributes and targets:

- To be favourable, the long-term population trend for each Special Conservation Interest species of waterbirds should be stable or increasing;
- Waterbird populations are deemed to be unfavourable when they have declined by 25% or more, as assessed by the most recent population trend analysis.
- To be favourable, there should be no significant decrease in the range, timing or intensity of use of areas by the waterbird species of Special Conservation Interest, other than that occurring from natural patterns of variation.

Objective 2 is 'To maintain the favourable conservation condition of the wetland habitat at Baldoyle Bay SPA as a resource for the regularly - occurring migratory waterbirds that utilise it.' This objective is defined by the following attributes and targets:

- To be favourable, the permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 263 ha, other than that occurring from natural patterns of variation. The boundary of Baldoyle Bay SPA was defined to include the primary wetland habitats of this site. Objective 2 seeks to maintain the permanent extent of these wetland habitats, which constitute an important resource for regularly-occurring migratory waterbirds. The wetland habitats can be categorised into three broad types: subtidal; intertidal; and supratidal. Over time and through natural variation these subcomponents of the overall wetland complex may vary due to factors such as changing rates of sedimentation, erosion etc. Waterbird species may use more than one of the habitat types for different reasons (behaviours) throughout the tidal cycle.
- Subtidal areas refer to those areas contained within the SPA that lie below the mean low water mark and are predominantly covered by marine water. Tidal rivers, creeks and channels are included in this category. For Baldoyle Bay SPA this broad category is estimated to be 34 ha. Subtidal areas are continuously available for benthic and surface feeding ducks (e.g. Wigeon) and piscivorous/other water birds. Various waterbirds roost in subtidal areas. The relatively low proportion of subtidal habitat is due to the fact that this SPA is designated primarily for birds using intertidal habitats.
- The intertidal area is defined, in this context, as the area contained between the mean high-water mark and the mean low water mark. For Baldoyle Bay SPA this is estimated to be 164 ha. When exposed or partially exposed by the tide, intertidal habitats provide important foraging areas for many species of waterbirds, especially wading birds, as well as providing roosting/loafing areas. When the intertidal area is inundated by the tide it becomes available for benthic and surface feeding ducks and piscivorous/other waterbirds. During this tidal state this area can be used by various waterbirds as a loafing/roosting resource. The supratidal category refers to areas that are not frequently inundated by the tide (i.e. occurring above the mean high

watermark) but contain shoreline and coastal habitats and can be regarded as an integral part of the shoreline.

- For Baldoyle Bay SPA this is estimated to be 65 ha. Supratidal areas are used by a range of waterbird species as a roosting resource as well as providing feeding opportunities for some species. The maintenance of the ‘quality’ of wetland habitat lies outside the scope of Objective 2.” The maintenance of the ‘quality’ of wetland habitat lies outside the scope of Objective 2. However, for the species of Special Conservation Interest, the scope of Objective 1 covers the need to maintain, or improve where appropriate, the different properties of the wetland habitats contained within the SPA.”

For Baldoyle SAC - Objective: To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in Baldoyle Bay SAC, which is defined by the following list of attributes and targets.

Target 1. The permanent habitat area is stable or increasing, subject to natural processes. This target refers to activities or operations that propose to permanently remove habitat from a site, thereby reducing the permanent amount of habitat area. It does not refer to long or short-term disturbance of the biology of a site.

Target 2. Conserve the following community types in a natural condition:

- Fine sand dominated by *Angulus tenuis* community complex; 257ha.
- Estuarine sandy mud with *Pygospio elegans* and *Tubificoides benedii* community complex; 152ha.

13.6.3. The NIS considers the potential impacts of the proposed development upon the Qualifying Interest (QI) of the SAC and SPA areas considered. There will be no direct habitat loss, fragmentation or direct impacts upon QI bird species arising from the development. However, as a direct hydrological connection exists via the Mayne River, potential for large quantities of sediment and other construction pollutants entering the watercourse resulting from works associated with construction of the proposed development, cannot be ruled out. This could increase deposition beyond normal levels, affecting the areas of habitat for which the SAC has been designated. Other potential impacts are identified in table 8 of the NIS and table 9 lists them as

follows: Habitat degradation, Dust deposition, Pollution, Silt ingress from site runoff, Downstream impacts, Negative impacts on aquatic and bird fauna and Disturbance. Following the precautionary principle, it is therefore considered appropriate to use specific mitigation measures as part of the proposed development and these are outlined in table 9.

- 13.6.4. I concur with the findings of the NIS in this regard, specifically in light of the proximity of the hydrological link from the subject site to the SAC and SPA area. The situation of the discharge of surface water to the existing attenuation pond which discharges to the Mayne River and the proximity to Baldoyle Bay SAC (0199) and SPA (4016) are particular characteristics that mean that likely significant effects cannot be ruled out. As such, specific mitigation measures during construction and operation are required to protect and maintain the integrity of the QI habitats and species supported in Baldoyle Bay in my view.
- 13.6.5. Mitigation measures are identified and set out in detail in 'Table 9' of the submitted NIS. These refer, for the most part, to best practice construction measures which seek to ensure *inter alia* the protection of water quality, during the construction phase and hydrocarbon interception will be put in place for the operational stage of the development. Earthwork operations will be carried out such that surfaces, as they are being raised, shall be designed with adequate drainage, falls and profile to control run-off and prevent ponding and flowing. Sealing of drainage ditches at the most downstream element prior to the watercourse, with a tall 45 degree sloped earth and batted back bund prior to site clearance and reprofiling. Any discharges to the watercourse during construction must be discussed with the ecologist and undergo desilting and petrochemical interception.
- 13.6.6. Following a review of the mitigation measures outlined in 'Table 9' of the submitted NIS, alongside consideration of the site-specific conservation objectives and potential impacts upon these, I am confident that with the incorporation of the described mitigation, the project would not adversely affect the integrity of Baldoyle Bay SAC (0199) and SPA (4016). This is based on a complete assessment of all implications of the project.
- 13.7. In-Combination / Cumulative Impacts

13.7.1. The submitted NIS refers to the context of the proposed development, with the broader urbanisation of lands as part of the expansion of Dublin City and its hinterland. This is planned for under the Fingal County Development Plan 2017-2023 and Baldoyle – Stapolin Local Area Plan 2013. The County Development Plan and LAP were also subject to Appropriate Assessment prior to adoption with consideration of the impact of identifying sites suitable for development in the County, including in and around Baldoyle. Consideration is also undertaken in the submitted NIS of pressure on wastewater treatment facilities and specifically the Ringsend Waste Water Treatment Plant (WWTP), with no significant effects anticipated on Natura 2000 sites.

13.7.2. The submitted NIS specifically identifies other planned developments in the vicinity of the subject site, these are also highlighted in the submitted EIAR. In this regard, I consider that there would not be potential for significant in-combination affect in my opinion. The NIS does give consideration of the risk of flooding and deterioration of water quality resulting from the cumulative effect of run-off to the Mayne River. Specific reference to the Greater Dublin Strategic Drainage Study is also provided, forming a set of universal standards to be complied with in development that incorporate SUDS techniques to maintain current levels of water quantity and quality. As a result, and on balance, I am satisfied with the submitted NIS in terms of in-combination and cumulative effects having been adequately identified and addressed.

13.7.3. With the implementation of the mitigation measures outlined in this report, I conclude that the proposed development is not likely to lead to any cumulative impacts on the integrity of the Baldoyle Bay SAC (0199) and SPA (4016), when considered in combination with other developments.

### 13.8. AA determination – Conclusion

13.8.1. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

13.8.2. Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that likely significant effects on the Baldoyle Bay SAC (0199) and SPA (4016) could not be ruled out, due to its hydrological link.

Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

- 13.8.3. Following an Appropriate Assessment, it has been determined that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, the Baldoyle Bay SAC (0199) and SPA (4016), or any other European site, in view of the sites Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and there is no reasonable doubt as to the absence of adverse effects.

## 14.0 Recommendation

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

## 15.0 Reasons and Considerations

Having regard to the:

(a) the site's location adjacent to Clongriffin Train Station and close to other local facilities and amenities, within an established built up area on lands with zoning objective RA 'new residential' that seeks to 'provide for new residential communities subject to the provision of the necessary social and physical infrastructure.' In the Fingal County Development Plan 2017-2023;

(b) The policies and objectives in the Fingal County Development Plan 2017-2023 and Baldoyle-Stapolin Local Area Plan 2013 (extended to May 2023);

(c) objectives 3a, 3b, 11, 13 and 35 of the National Planning Framework;

(d) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;

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

- (f) 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 (2019);
- (g) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (h) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (i) ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ prepared by the Department of Housing, Planning and Local Government 2020;
- (j) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (k) the nature, scale and design of the proposed development;
- (l) the availability in the area of a wide range of educational, social, community and transport infrastructure,
- (m) the pattern of existing and permitted development in the area and the extant planning application that refers to the site/lands concerned,
- (n) The Report of the Chief Executive of Fingal County Council received from the planning authority;
- (o) the submissions and observations received;
- (p) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the

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

## 16.0 Recommended Draft Board Order

### Planning and Development Acts 2000 to 2020

**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 4<sup>th</sup> day of June 2021 by The Shoreline Partnership, c/o Brady Shipman Martin, Canal House, Canal Road, Dublin 6.

### Proposed Development

The proposed development on a site of 9.1 hectares will consist of 882 residential units in 10 apartment blocks and 5 house groups, ranging in height from 2 to 15 storeys, the detail is as follows:

<b>Parameter</b>	<b>Site Proposal</b>
<b>Application Site</b>	9.1 hectares
<b>No. of Units</b>	882 units (747 apartments and 135 houses)
<b>Density</b>	96 units per hectare (gross)
<b>Dual Aspect</b>	340 apartment units (46%) All houses are dual aspect.
<b>Other Uses</b>	Gym – 411 sqm Convenience Store – 915 sqm Medical Centre – 462 sqm Pharmacy – 268 sqm Crèche – 539 sqm (135 spaces) Storage units – 292 sqm Retail/Restaurant/Café – 485 sqm

	Retail/Restaurant/Café – 112 sqm  Total 3,314 sqm (4.6% of total floor area)
<b>Public Open Space</b>	1.0042 Hectares – 11% of the site
<b>Private Communal Space</b>	7,526 sqm (open space - courtyards)
<b>Residential Amenity Space</b>	1,577 sqm (internal tenant amenity space), Concierge and reception areas, Lounges and collaborative works spaces, Study and games room and Resident support facilities.
<b>Height</b>	2-15 storeys
<b>Parking</b>	818 car parking spaces (368 undercroft, 450 surface)  1,542 bicycle spaces
<b>Vehicular Access</b>	From existing streets at Myrtle and Red Arches.
<b>Part V</b>	88 (at Blocks D2, B1, C1a, and C2a.)

#### Housing Mix

Unit Type	Studio	1 bed	2 bed	3 bed	Total
<b>Apartments</b>	38	209	439	61	747
<b>% of Total</b>	<b>5%</b>	<b>28%</b>	<b>59%</b>	<b>8%</b>	<b>100%</b>

Unit Type	2 bed	3 bed	4 bed	Total
<b>Houses</b>	7	96	32	135
<b>% of Total</b>	<b>5%</b>	<b>71%</b>	<b>12%</b>	<b>100%</b>

Building Heights in detail:

- Block A1 ranging in height from 6 to 8 storeys and containing 101 apartments
- Block A2 ranging in height from 4 to 7 storeys and containing 102 apartments
- Block A3 ranging in height from 4 to 7 storeys and containing 85 apartments
- Block B1 at 3 to 5 storeys and containing 49 apartments
- Block B2 ranging in height from 3 to 5 storeys and containing 39 apartments
- Block B3 at 2 storeys and containing 38 houses
- Block B4 at 2 storeys and containing 36 houses
- Block C1 at 2 storeys and containing 15 houses
- Block C1A at 4 to 6 storeys and containing 43 apartments
- Block C2 at 2 to 3 storeys and containing 17 houses
- Block C2A at 4 to 5 storeys and containing 33 apartments
- Block C3 at 2 to 3 storeys and containing 29 houses
- Block D1 ranging in height from 6 to 9 storeys and containing 118 apartments
- Block D2 ranging in height from 6 to 8 storeys and containing 81 apartments
- Block D3 ranging in height from 5 to 15 storeys and containing 96 apartments

Vehicular and pedestrian access from Myrtle to the south, Red Arches to the east and Station Hill to the west.

The proposed development seeks to alter a permitted planning permission FCC Reg. Ref. 16A/0412, ABP Reg. Ref. ABP-248970, as amended under F20A/0258 and F21A/0046 for 544 residential units (385 apartments and 159 houses) retail and a crèche. The proposed alterations do not apply to blocks C4, C5 and C6 (previously indicated as D1) of the permitted development, which relates to 99 houses currently under construction or the permitted 'The Haggard Park', no changes to surface water attenuation wetlands and associated upstream surface water network, demolition of existing temporary lift and stair enclosure and associated infrastructure to Clongriffin Train Station, Road infrastructure and Utilities infrastructure.

## **Matters considered**

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

## **Reasons and Considerations**

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

- (a) the site's location adjacent to Clongriffin Train Station and close to other local facilities and amenities, within an established built up area on lands with zoning objective RA 'new residential' that seeks to 'provide for new residential communities subject to the provision of the necessary social and physical infrastructure.' In the Fingal County Development Plan 2017-2023;
- (b) The policies and objectives in the Fingal County Development Plan 2017-2023 and Baldoyle-Stapolin Local Area Plan 2013 (extended to May 2023);
- (c) objectives 3a, 3b, 11, 13 and 35 of the National Planning Framework;
- (d) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (e) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (f) 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 (2019);
- (g) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (h) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

- (i) 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' prepared by the Department of Housing, Planning and Local Government 2020;
- (j) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (k) the nature, scale and design of the proposed development;
- (l) the availability in the area of a wide range of educational, social, community and transport infrastructure,
- (m) the pattern of existing and permitted development in the area and the extant planning application that refers to the site/lands concerned,
- (n) The Report of the Chief Executive of Fingal County Council received from the planning authority;
- (o) the submissions and observations received;
- (p) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

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

### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the information for the Screening for

Appropriate Assessment submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, other than Baldoyle Bay SAC (0199) and Baldoyle Bay SPA (4016), which are European Sites for which there is a likelihood of significant effects.

### **Appropriate Assessment Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an appropriate assessment of the implications of the proposed development on Baldoyle Bay SAC (0199) and Baldoyle Bay SPA (4016), in view of the above sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Sites in view of the sites conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

## **Environmental Impact Assessment**

The Board completed, in compliance with s.172 of the Planning and Development Act 2000, an Environmental Impact Assessment of the proposed development, taking into account:

- (a) The nature, scale and extent of the proposed development;
- (b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) The submissions from the applicant, planning authority, the observers and the prescribed bodies in the course of the application; and
- (d) The Planning Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.

- A significant direct effect on land by the change in the use and appearance of a relatively large area of urban waste ground to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of most material on the site and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

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

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the planning authority.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Fingal County Development Plan 2017-2023 in relation to car parking provision and the Baldoyle-Stapolin Local Area Plan 2013 (extended to May 2023) in relation to building height and unit mix. The Board considers that, having regard to the provisions of section 37(2)(b)(i), (ii), (iii) and (iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the County Development Plan and Local Area Plan would be justified for the following reasons and consideration:

a) In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended): the proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and comprises a significant amount of housing units (882) to deliver on the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

b) In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended): the matter of conflicting objectives in the development plan, Objective PM38 of the County Development Plan seeks to achieve an appropriate dwelling mix, size, type, tenure in all new residential developments, no specific targets are mentioned, however, Objective RS 2 of the Local Area Plan seeks to limit one bed

units to no more than 5%, The statutory plans for the area contain conflicting objectives.

c) In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended): regional planning guidelines for the area, the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs and this can result in taller buildings.

16.1.1. The proposed development in terms of height is in accordance with national policy as set out in the National Planning Framework, specifically NPO 13 and NPO 35, and is in compliance with the Urban Development and Building Height Guidelines, in particular SPPR3. In terms of unit mix, the proposed development meets the requirements of SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments 2020 and SPPR 4 of the Urban Development and Building Heights Guidelines that seeks a greater mix of building heights and typologies. In terms of car parking provision, this can be minimised, substantially reduced or wholly eliminated at accessible urban locations, section 4.19 of the Sustainable Urban Housing: Design Standards for New Apartments 2020

d) In relation to section 37(2)(b)(iv) of the Planning and Development Act 2000 (as amended): the pattern of development/permissions granted in the area since the adoption of the Development Plan where taller buildings were proposed, recent planning permissions for strategic housing granted in the wider area include; F16A/0412 (PL06F.248970), ABP 305316 (SHD) and ABP 305319 (SHD) refer.

## 17.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

a) The two Public Lifts located within the Village Square (Stapolin Square) shall be omitted and an alternative means of access for all, such as ramps shall be provided.

b) Car parking spaces R86 to R124 located beneath the proposed ramped access road to the Train Station Concourse shall be omitted from the undercroft car parking area. Water Tanks for D Blocks shall be repositioned away from beneath the ramped access road.

c) Details of a safe street crossing point at the western edge of the Village Square/Stapolin Square for pedestrians and public transport users to safely cross to the train station.

Drawings that detail these amendments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity and to promote more sustainable forms of transport.

3. The mitigation and monitoring measures outlined in Chapter 22 of the Environmental Impact Assessment Report (EIAR) submitted with this application,

shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment.

4. The mitigation and monitoring measures as they relate to the Baldoyle Bay SPA and Baldoyle Bay SAC outlined in Table 9 of the Natura Impact Statement submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment and integrity of Baldoyle Bay SPA and Baldoyle Bay SAC.

5. The developer shall comply with all requirements of the planning authority in relation to roads, access, cycling infrastructure and parking arrangements. In particular:

(a) The roads and footpaths shall be constructed in accordance with the Council's standards for taking in charge.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity

6. The streets that are constructed and/or completed on foot of this permission shall comply with the standards and specifications set out in of the Design Manual for Urban Roads and Streets (DMURS) issued in 2019. All streets shall be local streets as set out in section 3.2.1 of DMURS whose carriageway shall not exceed 5.5 metres in width. Where perpendicular parking is provided on those streets the additional width required for vehicles to manoeuvre shall be incorporated into the spaces in accordance with figure 4.82 of DMURS.

Reason: In the interests of road safety and to ensure that the streets in the authorised development facilitate movement by sustainable transport modes in accordance with the applicable standards set out in DMURS.

7. Details of any alterations to the road and pedestrian network serving the proposed development, including loading areas, footpaths, kerbs and access road to 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 the Design Manual for Urban Roads and Streets. 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.

8. All roads and footpaths shown connecting to adjoining lands shall be constructed up to the boundaries with no ransom strips remaining to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted and agreed with the Planning Authority.

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

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

Reason: In the interest of visual amenity.

10. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

11. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

12. Proposals for an estate/street name, apartment 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 unit numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of legibility and to ensure the use of locally appropriate place names for new residential areas.

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

Reason: In the interests of amenity and public safety.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

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

b) The Mobility Management Strategy shall incorporate a Car Parking Management Strategy for the overall development, which shall address the management and assignment of car spaces to residents and uses over time and shall include a strategy any car-share parking. Car parking spaces shall not be sold with units but shall be assigned and managed in a separate capacity via leasing or permit arrangements.

Reason: In the interest of encouraging the use of sustainable modes of transport, traffic and pedestrian safety.

16. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date.

Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

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

17. (a) All windows and roof lights shall be double-glazed and tightly fitting.

(b) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity.

18. 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.

19. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal

of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
- o) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works and the maintenance of access to Clongriffin Railway Station at all times;

Reason: In the interest of amenities, public health and safety.

22. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority the details and schedule of works adjacent to the railway line that address the matters referred to by Irish Rail in their submission on this application dated 8<sup>th</sup> July 2021. Any works associated with the proposed development including boundary treatments and landscaping shall ensure that the integrity of the embankment adjacent to the railway line is maintained.

Reason: To protect the railway and in the interests of public safety.

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

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

24. 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.

25. 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.

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

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

27. The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

28. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority the details referred to by the Irish Aviation Authority in their submission on this application dated 17<sup>th</sup> June 2021.

(a) The developer shall engage with Dublin Airport Authority to ensure that any crane operations do not impact on flight procedures and air safety. The developer shall also contact the Irish Aviation Authority and DAA of intention to commence crane operations with a minimum of 30 days notification of their erection.

Reason: In the interest of residential amenity and aircraft safety.

29. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

(a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

30. 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.

31. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 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 of the development.

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Stephen Rhys Thomas  
Senior Planning Inspector

02 September 2021