



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-312112-21**

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#### **Strategic Housing Development**

172 no. residential units (150 no. houses, 22 no. apartments) and associated site works.

#### **Location**

Station Road, Portmarnock,  
Townlands of Drumnigh, Maynetown  
and Portmarnock, Co. Dublin.  
([www.portmarnocksouthphase1d.com](http://www.portmarnocksouthphase1d.com))

#### **Planning Authority**

Fingal County Council

#### **Applicant**

Quintain Developments Ireland  
Limited

#### **Prescribed Bodies**

Irish Rail  
Irish Water  
Transport Infrastructure Ireland

**Observer(s)**

John Mulligan

Sabrina Joyce-Kemper and Others

Criostóir De Stin

**Date of Site Inspection**

11<sup>th</sup> March 2022

**Inspector**

Sarah Moran

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## 1.0 Introduction

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

## 2.0 Site Location and Description

- 2.1. The site is undeveloped lands to the south and east of Portmarnock village centre and railway station, in the townlands of Portmarnock, Drumnigh and Maynetown, It is located beside the railway station at Portmarnock, c.12km northeast of Dublin city centre. The area is characterised as an emerging/developing mixed use urban area as identified in the Portmarnock South LAP. The site is at the southern end of a larger area of lands owned by the applicant, which are situated to the south of Station Road and are generally to the east of the Dublin/Belfast railway line, west of the R106 Coast Road and north of the Mayne Road. This is the third application within the overall landholding, described as the St. Marnock's Bay development. Phase 1A which comprised 101 no. units and Phase 1B which comprised 150 no. units of St. Marnock's Bay are now complete. Phase 1C, which comprises 153 no. units and a local centre, is currently under construction. The proposed development would constitute Phase 1D of St. Marnock's Bay.
  - 2.1.1. The site is close to the coast and is c. 500m from the head of the Baldoyle estuary, a small estuary of the River Sluice. The Baldoyle SPA and SAC are located east of this estuary. There are several recorded monuments in the vicinity of the site including ref. DU015-014, nearby to the north, which is known as the Portmarnock Burial Mound and is also protected structure RPS no. 475, and the Maynetown Enclosure, ref. DU015-055, located nearby to the southeast of the site boundary. There is a substantial fall across the overall LAP lands along Station Road to a low point at the eastern end. The recorded monuments are linked along a ridge line which is broadly level across the site. The development site also contains several townland boundaries, which are protected under the Portmarnock South LAP. The site is located along the flight path of Dublin airport.
  - 2.1.2. The site has a stated gross area of c. 11.05 ha and is located to the south of the previous phases of the St. Marnock's Bay development. It is accessed from Station

Road via two existing entrances to St. Marnock’s Bay. Within the development site, there is an area currently used as a construction compound associated with the ongoing St. Marnock’s Bay construction, with a temporary haul route connecting to Mayne Road. The remainder of the site is mainly undeveloped lands with intact field boundaries. Soils have been stripped in areas and parts of the site are used to store construction materials and spoil. The red line site boundary includes a spur which connects to Mayne Road further to the south. It also includes a small area at Station Road, where an upgraded pumping station is to be located. The main part of the site is bound as follows:

- Dublin-Belfast railway line to the west
- Phases 1A, 1B and 1C of the St. Marnock’s Bay development to the north
- Undeveloped lands to the east and south, which are designated as an Ecological Buffer Zone under the Portmarnock South LAP

2.1.3. The development site includes lands owned by Fingal County Council and by another adjoining landowner. Letters of consent are submitted.

### 3.0 Proposed Strategic Housing Development

3.1. The following key parameters are noted:

<b>Site Area</b>	Gross 11.05 ha Net c. 5.33 ha
<b>Residential Units</b>	172 (22 no. duplex/apts and 150 no. houses)
<b>Total Gross Resi Floorspace</b>	c. 20,690 sq.m.
<b>Building Height</b>	1.5 - 3 storeys
<b>Density</b>	Net density c. 32.3 units/ha
<b>Aspect (apartments)</b>	100% dual aspect
<b>Public and Communal Open Space</b>	Public open space comprising: <ul style="list-style-type: none"> <li>• Skylark Park c. 8,150 sq.m.</li> <li>• Extension to Railway Linear Park c. 6,900 sq.m.</li> <li>• Extension of townland boundary linear parks c. 10,230 sq.m.</li> </ul> Communal open space to side/rear of duplex blocks.

<b>Childcare</b>	No childcare proposed with reference to LAP policy on the Dublin Airport Outer Public Safety Zone.
<b>Part V</b>	Transfer of 17 no. units to Fingal County Council.
<b>Roads/Vehicular/Pedestrian Access</b>	Vehicular/pedestrian/cycle access via existing/under construction access points from Station Road serving the St. Marnock's Bay development. New vehicular connection to Mayne Road with associated SUDS features.  Development will benefit from a permitted connection to Portmarnock Railway Station via St. Marnock's Bay.
<b>Car and Cycle Parking</b>	345 no. car parking spaces  30 no. cycle spaces to serve the 22 no. apartments/duplex units
<b>Site Services</b>	Connection to existing IW watermain network and foul infrastructure. Upgrade works to permitted St. Marnock's Bay temporary pumping station.  Connection to existing/permitted surface water network at St. Marnock's Bay, which includes a regional wetland.
<b>Ancillary Development</b>	3 no. ESB substations

3.1.1. The following housing mix is proposed:

<b>UNIT TYPE</b>	<b>NO. OF UNITS</b>	<b>%</b>
<b>Houses</b>		
4 bed house	56	33%
3 bed house	94	55%
Total houses	150	
<b>Apartments / Duplex Units</b>		
3 bed Duplex unit	11	6%
2 bed apartment	11	6%
Total apartments/duplex	22	
<b>Total</b>	<b>172</b>	

- 3.1.2. The application is accompanied by an EIAR, a NIS and a Material Contravention Statement.

## 4.0 Planning History

### 4.1. Development Site

- 4.1.1. There is no planning history on file specifically relating to the development site.

### 4.2. Adjacent Sites

- 4.2.1. The following applications relating to adjacent sites are noted.

4.2.2. St. Marnock's Bay Phase 1A Reg. Ref. F13A/0248

Relating to lands at the north western corner of the overall landholding, fronting onto Station Road. Fingal County Council (FCC) granted permission for 101 no. houses in 2014, known as Phase 1A of St. Marnock's Bay. The development is now complete.

4.2.3. St. Marnock's Bay Phase 1B ABP-300514-17

SHD permission was granted in 2018 for 152 no. residential units (52 no. duplex units and 98 no. houses) on lands known as Phase 1B, to the east of F13A/0248 and also fronting onto Station Road. The development incorporates the Portmarnock Burial Mound National Monument/protected structure, a cycle/walking route along Station Road, a detention pond, a temporary wastewater pumping station and wastewater storage tank and a regional wetland area located alongside Strand Road. This development is completed.

4.2.4. St. Marnock's Bay Phase 1C ABP-305619-19

SHD permission was granted in 2020 for 153 no. residential units (113 no. houses and 40 no. apartments), three no. retail units, café, restaurant and medical unit, on lands known as Phase 1C. Construction works are underway at this site.

4.2.5. Baldoyle to Portmarnock Pedestrian and Cyclist Scheme ABP-300840-18

The Board granted permission in 2018 under section 177AE of the Planning and Development Act 2000 (as amended) for construction of 1.8 km of pedestrian and cycle path on the inland side of the R106 Coast Road from Red Arches Road to just south of the Coast Road/Station Road roundabout, within the Racecourse Park. The route involved the construction of a bridge over the Mayne River; upgrading of the

existing priority junction between Coast Road and Mayne Road to a signal controlled junction with pedestrian facilities; and provision of toucan crossing facilities on Coast Road at either end of the scheme.

4.2.6. Portmarnock Bridge Pumping Station ABP-307641-20, Reg. Ref. F19/0400, F20A/0568 and F21A/0389

Relating to a site to the northeast of the development site, near the junction of Station Road and Strand Road, where there is an existing wastewater pumping station. FCC granted permission for a new larger pumping station and associated pipework to include gravity sewer and rising main connections, reg. ref. F19/0400. This decision was the subject of third party appeal ref. ABP-307641-20. The Board refused permission in 2020 for the following stated reason:

*Having regard to the location of the site in an area which is prone to flooding and on the basis of the submissions made in connection with the planning application and the appeal, the Board is not satisfied that the proposed development which is classed as a highly vulnerable development in “The Planning System and Flood Risk Management: Guidelines for Planning Authorities” issued in November, 2009 by the Department of the Environment, Heritage and Local Government, would not give rise to an increased risk of flooding on the site or property in the vicinity. The proposed development would, therefore, be prejudicial to public health and safety and would be contrary to the proper planning and sustainable development of the area.*

Permission was sought by Irish Water on 9<sup>th</sup> November 2020 for a new wastewater pumping station and associated network infrastructure under reg. ref. F20A/0568. The proposal involved decommissioning the existing Portmarnock Bridge pumping station and the transfer of foul flows to the proposed pumping station. The application was withdrawn on 7<sup>th</sup> January 2021.

Irish Water then sought permission on 19<sup>th</sup> July 2021 under F21A/0389 for a wastewater pumping station comprising modification of Portmarnock Bridge pumping station and gravity sewer connection beneath the Sluice River linking the proposed pumping station and the modified Portmarnock Bridge 'pumping' station, also completion of rising main connection to North Fringe Sewer; decommissioning of foul rising main within Strand Road and Coast Road and other site works. Further



information was sought by FCC on 10<sup>th</sup> September 2021, which remains pending. FCC decided to grant a time extension of three months on 21<sup>st</sup> February 2022.

4.2.7. Reg. Ref. F20A/0700 Construction Haul Road and Temporary Junction

Permission was granted in 2020 for a construction haul road and temporary junction onto Mayne Road serving the St. Marnock's Bay development.

## 5.0 Section 5 Pre Application Consultation

### 5.1. Pre-Application Opinion ABP-310235-21

5.1.1. The pre-application consultation related to a proposal to construct 172 no. units (150 no. houses and 22 no. duplex units) at the development site. The Board issued an Opinion on 11<sup>th</sup> August 2021 stating that it considered that the documents submitted with the request to enter into consultations required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development. The Board considered that the following issues need to be addressed in the documents submitted that could result in them constituting a reasonable basis for an application for strategic housing development:

(a) Further consideration/amendment of documents as they relate to water and wastewater proposals to service the development. The documents should provide details of necessary upgrade works required to facilitate the development to include, inter alia: plans and particulars, having regard to the network constraints raised by Irish Water in their report dated 18<sup>th</sup> June 2021 and in the report of the Planning Authority's Water Services Department dated 24<sup>th</sup> May 2021. In the event that Irish Water infrastructure is not available, a justification should be submitted that seeks to address the potential negative impact of the development on the existing infrastructure, in particular the temporary pump station and clarify any upgrades that may also be required to allow additional connections to this pump station.

5.1.2. The Opinion also set out specific information that should be submitted with any application for permission, pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017.

## 5.2. Applicant's Statement of Response

5.2.1. The application includes a statement of response to the pre-application consultation, as provided for under section 8(1)(iv) of the Act of 2016, which outlines the information/documentation submitted as specified in the ABP Opinion. The matters addressed in the applicant's documentation may be summarised as follows.

### 5.2.2. Response to Water and Wastewater Issues

The following points are noted:

- The applicant has made adjustments to the development with a revised site boundary to include the temporary pumping station constructed in Phase 1B under ABP-300514-17, to facilitate upgrade works to serve the proposed development as an interim measure pending delivery of the planned upgrade to the Portmarnock Bridge pumping station in c. 2025. The site boundary also includes a larger area for the SuDS features associated with the new permanent road to connect with Mayne Road.
- The wastewater arrangements are proposed on foot of extensive dialogue between the applicant and Irish Water (IW). IW issued a new Confirmation of Feasibility for the proposed development in October 2021, which confirms that connection to the foul network is feasible subject to upgrade works being carried out to the existing temporary pumping station.
- These upgrade works are incorporated into the proposed development and include additional operational storage (6-12 hours) and telemetry and PLC upgrades to allow communication between the existing Portmarnock Bridge pumping station, the Mayne Road pumping station and the St. Marnock's Bay temporary pumping station. Discharge from the temporary pumping station is to be pumped to a gravity line which discharges to an existing foul sewer in Coast Road. This sewer discharges to the Mayne Bridge pumping station from where it is pumped to the North Fringe Sewer.
- The Board is also referred to the applicant's Site Specific Flood Risk Assessment (SSFRA), which addresses flooding issues relating to the temporary pumping station, as well as to the detailed surface water management strategy and water supply proposals.

- It is recognised that this proposal deviates from the LAP Objective WW1. However, IW are satisfied there is existing capacity to cater for an additional 172 no. dwellings without further works being required.

5.2.3. The applicant's response also includes a statement which outlines the information/ documentation submitted as specified in the ABP Opinion.

## 6.0 Relevant Planning Policy

### 6.1. National Planning Framework

6.1.1. The NPF is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives. The following objectives are of note:

NPO 3(a) Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO 3(b) To deliver at least half (50%) of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway, and Waterford, within their existing built-up footprints.

NPO 4 To ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

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

NPO 13 In urban areas, planning, and related standards, including 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.

NPO 27 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.

NPO 33 Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

NPO 35 To increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## 6.2. **Section 28 Ministerial Guidelines**

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

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) 2009
- Design Standards for New Apartments Guidelines for Planning Authorities (as updated 2020)
- Design Manual for Urban Roads and Streets (DMURS) 2019
- The Planning System and Flood Risk Management (including the associated Technical Appendices) 2009
- Childcare Facilities Guidelines for Planning Authorities 2001
- Urban Development and Building Heights Guidelines for Planning Authorities 2018
- Guidelines Regarding the Regulation of Commercial Institutional Investment in Housing (May 2021)

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

6.3.1. The Dublin Metropolitan Area Strategic Plan (MASP) is an integrated land use and transportation strategy for the Dublin Metropolitan Area, which seeks to manage the sustainable and compact growth of the Dublin Metropolitan Area. The following Regional Policy Objectives are noted in particular:

RPO 3.2 Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 4.3 Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built up area of Dublin City and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

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

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

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

- 6.4.1. The site is located within the development boundary of Portmarnock. Development plan Variation no. 2, adopted from 19<sup>th</sup> June 2020, states the following in relation to Portmarnock:

*Lands proximate to the DART station are delivering housing within an LAP framework. The lands are served by much improved cycling infrastructure and access to high quality parkland and coastal amenity. Ongoing housing construction and delivery through LAP phasing is taking place. 9% population growth to 2023 is appropriate.*

Table 2.4 of Variation no. 2 states that Portmarnock has a remaining land capacity of 43 ha zoned lands, with a remaining capacity for 1,116 no. residential units. Section 2.6 of Variation no. 2, 'Housing Land Capacity', also states:

*The Development Plan must in the short-term plan for an additional 15,285 housing units. These units shall be located at appropriate locations proximate to existing settlement centre lands where infrastructural capacity is readily available, and they are along an existing or proposed high quality public transport corridor.*

The following objectives are noted:

Objective SS01 Consolidate the vast majority of the County's future growth into the strong and dynamic urban centres of the Metropolitan Area while directing development in the core to towns and villages, as advocated by national and regional planning guidance.

Objective SS02 Ensure that all proposals for residential development accord with the County's Settlement Strategy and are consistent with Fingal's identified hierarchy of settlement centres.

Objective SS 02a Development will be permitted in principle on lands where there is a Local Area Plan or Masterplan in place and only when these lands are substantially developed will permission be granted for the development of lands without such a framework. Should the lands identified within a LAP or Masterplan not come forward for development in the short term, consideration will be given to other lands.

Objective SS 02b Focus new residential development on appropriately zoned lands within the County, within appropriate locations proximate to existing settlement centre lands where infrastructural capacity is readily available, and they are along an existing or proposed high quality public transport corridors and on appropriate infill sites in the town centres, in a phased manner alongside the delivery of appropriate physical and social infrastructure.

6.4.2. The majority of the site is zoned Objective RA:

*Provide for new residential communities in accordance with approved local area plans and subject to the provision of the necessary social and physical infrastructure.*

With the following stated vision:

*Ensure the provision of high quality new residential environments with good layout and design, with adequate public transport and cycle links and within walking distance of community facilities. Provide an appropriate mix of house sizes, types and tenures in order to meet household needs and to promote balanced communities.*

The southern portion of the site is zoned Objective OS:

*Preserve and provide for open space and recreational amenities.*

With the following stated vision:

*Provide recreational and amenity resources for urban and rural populations subject to strict development controls. Only community facilities and other recreational uses will be considered and encouraged by the Planning Authority.*

The OS objective is overlain with an Ecological Buffer Zone associated with Baldoyle Bay, which extends further to the east and south of the development site. The area of the development site within the OS objective is also traversed by several roads objectives.

6.4.3. All of the development site is located within the Outer Public Safety Zone and the Outer Airport Noise Zone for Dublin Airport. This imposes a density restriction of a maximum of 60 persons per 0.5 ha. It also prohibits the provision of creche and school facilities within the site.

6.4.4. Development plan Chapter 4 sets out the following objectives for Portmarnock:

*Objective PORTMARNOCK 1 Develop Portmarnock as a vibrant town providing services and amenities for both the residential and visitor populations.*

*Objective PORTMARNOCK 2 Implement the Portmarnock Urban Centre Strategy and prepare a Public Realm Strategy to include any issues which may be identified as part of public consultation such as streetscape, car parking, traffic movement, environmental improvements and permeability.*

*Objective PORTMARNOCK 3 Preserve the identity of the town by securing its physical separation from Malahide by greenbelts and from Baldoyle by appropriate land use within the open space and high amenity lands.*

*Objective PORTMARNOCK 4 Protect and manage the flood plain of the Sluice River to the south of Portmarnock and ensure that its integrity as a natural habitat is maintained; and investigate the potential of a riverside walkway.*

*Objective PORTMARNOCK 5 Promote an enhanced rail station and rail service with improved facilities for cyclists including secure bike racks, and supporting an increase in car parking space provision for motorists together with the provision of a feeder bus service and improved pedestrian and cycle linkage between Chapel Lane and the station.*

*Objective PORTMARNOCK 6 Protect and preserve the character and amenity of Portmarnock Beach, in view of its importance to the identity of the town and as an amenity for the domestic and foreign visitors, by protecting the beach from any development likely to adversely impact on water quality, integrity of the dunes ecosystem, biodiversity, visual amenity or excessive noise pollution while supporting activities or developments which would add to the amenity.*

*Objective PORTMARNOCK 7 Prepare and/or implement a Local Area Plan for lands at Portmarnock South to provide for strategic development of the area as a planned sustainable mixed use residential development subject to the delivery of the necessary infrastructure. (Refer to Map Sheet No. 9, LAP 9.A)*

The following objective is also noted:

*Objective BALDOYLE 1 Protect the visual break and open character of lands between Baldoyle and Portmarnock by maintaining the greenbelt lands and appropriate recreational uses on Racecourse Park which respect the character, sensitivity and natural heritage designations of the existing landscape.*

- 6.4.5. The following Development Plan map based Local Objectives relating to the vicinity of the development site and the Portmarnock South LAP lands are noted:

*408: Density shall be in accordance with (draft) public safety zones recommended by the Government.*

*410: Develop an estuary walkway and cycleways from Mayne Bridge, Baldoyle Road to Strand Road, Portmarnock together with an adequate system of public lighting for the entire route from Baldoyle to Portmarnock.*



*422: Create a full pathway from Howth to Malahide through the construction of a pathway from the River Mayne Bridge to the Portmarnock Roundabout.*

*429: Only development relating to recreational activities to be permitted in the OS zoning between Portmarnock and Baldoyle.*

*435: Facilitate extra housing on Station Road, Drumnigh Road and Old Portmarnock to link into the main drainage scheme.*

*460: In co-operation with relevant national agencies, to draw up a plan for improving the water quality of Baldoyle Estuary in conjunction with the Eastern River Basin Management System.*

The following Local Objectives apply to the Portmarnock South LAP area:

*79: The visual impact on the Greenbelt of this new housing in Portmarnock will be minimised by its siting, design and by planting.*

*80: Develop an estuary walkway and cycleway from Mayne Bridge, Baldoyle road to Strand Road, Portmarnock together with an adequate system of public lighting for the entire route from Baldoyle to Portmarnock.*

- 6.4.6. Development plan Map 9 indicates a cycle/pedestrian route along Station Road to the north of the development site, linking to the future Portmarnock/Baldoyle cycle route. There is a road objective indicated to the south of the development site at Mayne Road, with the following Local Objective:

*88: This road alignment is neither fixed nor indicative. It could be along the existing Mayne Road alignment or another alignment.*

- 6.4.7. The following development plan objectives are also noted:

*Objective DA10 Restrict development which would give rise to conflicts with aircraft movements on environmental or safety grounds on lands in the vicinity of the Airport and on the main flight paths serving the Airport, and in particular restrict residential development in areas likely to be affected by levels of noise inappropriate to residential use.*

*Objective DMS57 Require a minimum public open space provision of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of*

*3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.*

*Objective DMS57A Require a minimum 10% of a proposed development site area be designated for use as public open space. The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities outside the development site area, subject to the open space or facilities meeting the open space 'accessibility from homes' standards for each public open space type specified in Table 12.5. The Council has the discretion for the remaining open space required under Table 12.5 to allow provision or upgrade of Regional Parks in exceptional circumstances where the provision or upgrade of small parks, local parks and urban neighbourhood parks and/or recreational/amenity facilities is not achievable. This is subject to the Regional Park meeting the open space 'accessibility from homes' standard specified in Table 12.5.*

*Objective DMS59 Ensure every home within a new residential scheme is located within 150 metres walking distance of a pocket park, small park, local park, urban neighbourhood park or regional park.*

*Objective DMS73 Ensure as far as practical that the design of SuDS enhances the quality of open spaces. SuDS do not form part of the public open space provision, except where it contributes in a significant and positive way to the design and quality of open space. In instances where the Council determines that SuDS make a significant and positive contribution to open space, a maximum 10% of open space provision shall be taken up by SuDS. The Council will give consideration to the provision of SuDS on existing open space, where appropriate.*

*Objective DMS74 Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.*

- 6.4.8. Development plan Variation No. 1 sets out policies and objectives relating to aircraft noise associated with Dublin Airport. Four Noise Zones are identified, Zones A, B, C and D, of which the development site is located within Zone B, with the following stated objective:

*To manage noise sensitive development in areas where aircraft noise may give rise to annoyance and sleep disturbance, and to ensure noise insulation is incorporated within the development.*

The development plan requires a Noise Assessment for sensitive developments in Zone B. The following objective applies:

*Objective DA07 Strictly control inappropriate development and require noise insulation where appropriate in accordance with table 7.2 above within Noise Zone B and Noise Zone C and where necessary in Assessment Zone D, and actively resist new provision for residential development and other noise sensitive uses within Noise Zone A, as shown on the Development Plan maps, while recognising the housing needs of established families farming in the zone. To accept that time based operational restrictions on usage of a second runway are not unreasonable to minimize the adverse impact of noise on existing housing within the inner and outer noise zone.*

Variation no. 1 also refers to noise impacts on sensitive developments associated with roads and rail. Noise Assessments are to be carried out and developments are to be designed to achieve acceptable internal and external noise levels. Internal noise levels should be in keeping with BSI Standards Publication BS 8233:2014 Guidance on sound insulation and noise reduction for buildings, Table 4: Indoor ambient noise levels for dwellings while external noise should be in accordance with section 7.7.3.2 Design Criteria for external noise. The following objectives apply:

*Objective NP06: Developments for noise sensitive uses shall have regard to any future national planning guidance, or in the interim any local planning guidance developed under the Noise Action Plan.*

*Objective NP07: Developments for noise sensitive uses shall have regard to the noise exposure maps contained within the Fingal Noise Action Plan 2018 – 2023 or any supplementary mapping prepared by Fingal County Council, and developers shall be required to produce a noise impact assessment and mitigation plans, where necessary, for any new noise sensitive development within these areas.*

## 6.5. Portmarnock South Local Area Plan 2013 (as extended)

6.5.1. The site is within the boundary of the Portmarnock South LAP, which encompasses an overall area of c. 86 ha of elevated coastal lands to the south of Portmarnock village, situated between Portmarnock railway station to the west, the R106 Coast Road to the east and the River Mayne to the south. The LAP has had its period extended to 2023.

6.5.2. The LAP identifies strategic aims including:

- Ensuring integrity of the Baldoyle Bay SAC and SPA, improvement of water quality, promotion of biodiversity and conservation and enhancement of archaeological heritage;
- Promotion of sustainable means of transport;
- Promotion of connectivity and creation of a hierarchy of public spaces;
- Promotion of a sense of place, protection of existing amenity;
- Integration of the proposal with the landscape character of the area;
- Provision of a wide choice of dwelling types;
- Promote a socially inclusive community;
- Promote a mix of retail, service, healthcare, recreational and community facilities within the services centre;
- Promote and facilitate employment and tourism appropriate to the area;
- Phasing to ensure timely and adequate provision of infrastructure to service development.

6.5.3. The LAP lands are constrained by safety zones associated with Dublin Airport. LAP section 2.2.6 states that the density of development within the airport outer safety zone is limited to 60 persons per half hectare plot. LAP section 4.2 states that the RA zoned lands in the plan area have the potential to achieve up to approx. 1,200 residential units based on a density of c. 42 units/ha, which accords with airport safety zone criteria. This would equate to a potential population of c. 3,360 persons, subject to meeting design standards, environmental and movement parameters set out in the Plan and relevant guidelines. An average minimum density of 35 units/ha

with an average maximum density of 42 units/ha shall be considered to comply with the sustainable objectives of the LAP.

6.5.4. The OS zoned lands to the south of the development site are indicated as “Racecourse Regional Park North” on the LAP Green Infrastructure and Landscape Strategy map. The area is designated as an Ecological Buffer Zone. LAP Section 5 sets out habitat protection measures required within the Ecological Buffer Zone, including the following:

- The Ecological Buffer Zone within the plan lands maintained as amenity grassland, semi-natural meadow, natural grassland and scrub, pasture and arable land use including wintering crops such as linnet mix.
- A ‘quiet zone’ established to the south of the residential development area to cater for Brent Geese and wader species. The ‘quiet zone’ to consist of grassland pasture.
- This ‘quiet zone’ will be enclosed by a fence and hedge to prevent disturbance during the winter migratory bird season. The enclosure must be dog proof but can permit overlooking of the ‘quiet zone’ e.g. 1.2 metre high fence with hedge planting of native species.
- Retention of field within the southern section of the plan lands under arable cultivation. This will support and encourage food production through community and contract farming initiatives.
- The extensive open space within the Ecological Buffer Zone to be managed as meadows. The meadows will support a wider diversity of native grass and wildflower species than traditional mown amenity grass and will thus support a greater number and variety of insect life, which in turn supports the bird population. The seeds produced by grass and flower species also provide a direct food source for birds.
- Provision of SuDS Regional Wetland, unless otherwise agreed (Objective SW12 refers) and subject to AA screening to ensure all downstream habitats and open habitat used by qualifying interest birds are protected.

6.5.5. The following LAP objectives are also noted:

*Objective C1 Maintain qualifying interest habitats and species within the Baldoyle SPA and SAC and other European sites where relevant at favourable conservation condition to ensure the ecological integrity of Baldoyle Bay and further ensure that the LAP lands continue to provide supporting functions for the Qualifying interest species.*

*Objective C2 Protect and conserve the natural habitats and designated status of the Sluice River Marsh and ensure that salmonid waters constraints apply to all development within the plan lands.*

*Objective GI6 Require Appropriate Assessment Screening for any development, plan or project including changes to the landscape, within the Ecological Buffer Zone. This will include any changes to existing or future layout, materials or management.*

*Objective GI7 Protect and enhance the function of the Ecological Buffer Zone through appropriate mitigation and management measures as set out in the Green Infrastructure and Landscape Strategy.*

*Objective GI13 Ensure that sufficient information is provided as part of development, plan or project proposals to enable AA screening to be undertaken and to enable a fully informed assessment of impacts on biodiversity to be made.*

*Objective TM4 Ensure that all planning applications provide for a pedestrian/cycle connection to Portmarnock train station within the plan lands in consultation with Irish Rail. Interfacing with residential development, environmental features and the train station lands shall be carefully considered in future route design proposals.*

*Objective WW 1 Ensure that all required drainage infrastructure including the installation and commissioning of the pump station and network are completed and operational following the completion of the first 100 dwellings and prior to the commencement of further development.*

- 6.5.6. Section 7 of the LAP deals with Urban Design. LAP table 11.6 sets out detailed phasing requirements for residential development.

## **6.6. Statement of Consistency**

- 6.6.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016. The Statement considers compliance with national, regional strategic planning policy and guidance documents and local policy documents.

6.6.2. The Statement makes the following points in relation to national and regional planning policies:

- The development is strategically located on greenfield lands within walking distance of high frequency, high capacity public transport in the form of commuter rail and DART services at Portmarnock railway station. The site is serviceable and well connected to the road network. The site forms part of the Portmarnock South development lands, which have long been identified as a prime location for future residential development at a sustainably high density. It is submitted that the development is compliant with the NPF whilst also adhering to the aviation safety requirements in relation to density as set out in the LAP.
- The proposed plan-led development will deliver significant additional housing in a range of house types in a consolidated, accessible urban neighbourhood. It will be supported by ancillary and associated community facilities and public open space. It represents an efficient use of zoned lands in close proximity to public transport, in accordance with national and regional planning policy.
- The application includes a Design Statement and a detailed response to the 12 criteria of the Urban Design Manual.
- The proposed housing mix is in accordance with SPPR 1 of the Apartment Guidelines. The development meets or exceeds the quantitative requirements of SPPRs 3, 4, 5 and 6 of the Apartment Guidelines, as per the submitted Housing Quality Assessment. The proposed communal open space provision exceeds the quantitative requirement. The site is considered to be at an Intermediate Urban Location with regard to car parking and the proposed car parking and cycle provisions are consistent with this.
- The proposed house types are consistent with the guidance provided in the document 'Quality Housing for Sustainable Communities'.
- The proposed building height of 1.5 -3 storeys is consistent with development plan and LAP policies, therefore SPPR 3 of the Building Height Guidelines does not apply. The development achieves an appropriate net density having regard to aviation safety restrictions as well as building heights in accordance with the LAP and a mix of units for this type of location consistent the established surrounding character of the area.

- A SSFRA is submitted as per the Planning System and Flood Risk Management Guidelines.
- A Statement of Consistency with DMURS is submitted.
- The development does not include a childcare facility due to its location within the Outer Safety Zone associated with Dublin Airport. The application includes a Social Infrastructure Audit, and it is submitted that the development is consistent with the Childcare Guidelines.

6.6.3. The Statement makes the following points in relation to development plan policies and objectives:

- The development will support the consolidation of Portmarnock by providing compact residential development, which is contiguous with the existing residential development on the Portmarnock South lands and in close proximity to Portmarnock Train Station. This is consistent with the designation of Portmarnock as a Consolidation Area within the Metropolitan Area in the County Settlement Strategy set out in development plan Variation no. 2.
- The development of 172 no. residential units comprises approx. 15% of the remaining 1,116 no. units allocated for Portmarnock (as of September 2019) under the provisions of the development plan Core Strategy, as per table 2.4 of Variation no. 2. The Statement lists residential developments permitted on LAP lands since the adoption of the current Development Plan, such that a total of 866 no. units have been permitted to date.
- The development is part of a larger scheme, which will deliver services and amenities including a public open space and play area at the Portmarnock Mound recorded monument, part of the Railway Linear Park and a local centre containing retail, café/ restaurant units and a medical/community unit. The subject application also includes Skylark Park, two linear parks and a connection to Railway Linear Park.
- The proposed land uses are consistent with the RA zoning objective.
- Local Objective 79. The development provides a landscaped circulation route along the ridge between the two recorded monuments. The edge treatment to the Ecological Buffer Zone to the south is formed by 1.5 to two storey houses,



providing a transition to the two storey and three storey houses to the north. Overall, the development is designed to utilise the contours of the existing site to incorporate additional building height without impacts on surrounding views.

- Local Objective 88. The development will deliver a roads objective indicated on Development Plan Map 9, which will follow the alignment of the permanent road identified in the Portmarnock South LAP.
- The development is consistent with development management standards relating to separation distances, sunlight and daylight, private open space provision. A detailed analysis of public open space provision in the context of development plan objectives DMS 57 and DMS 57A is provided, which demonstrates that the development will exceed development plan public open space requirements.

6.6.4. The Statement makes the following points in relation to LAP policies and objectives:

- The application includes a Conservation Management Plan, a Landscape Design Rationale, a Tree and Hedgerow Survey and associated Arborist's Report, a Tree Planting Plan, a NIS, a Construction Management Plan, a SuDS Strategy and a Public Lighting Plan in support of the Green Infrastructure objectives of the LAP, ref. Objective GI 2, G1 3, GI 4, GI 8, GI 9, GI 13, GI 17, GI 18, GI 25.
- The proposed layout is permeable and provides walking and cycling connections and parks, which will connect with adjoining developments. It represents a continuation of the St Marnock's Bay development of the Portmarnock South LAP lands, in line with the holistic vision for development of these lands contained in the LAP.
- The development retains the townland boundary hedgerow between the residential development and Skylark Park, which will be supplemented with additional native mature planting. Minimal interventions are proposed to facilitate road and pedestrian/cycle connections. The development will work with the contours of the site to avoid the necessity for excessive cut or fill.
- The proposed road connection to Mayne Road is consistent with the alignment identified in the LAP. The development will connect to the existing pedestrian/cycle network at St. Marnock's Bay and at the coastal route. It will connect to Portmarnock railway station via St. Marnock's Bay. The detailed design of

roads/streets is consistent with DMURS. Adequate car and cycle parking are provided. The development is therefore in accordance with LAP Movement and Transport objectives and relevant objectives regarding connections to social infrastructure.

- The development includes proposals to upgrade the temporary pumping station, which addresses LAP infrastructure and services objectives.
- The applicant submits a detailed rationale for the development in the context of the phasing set out in LAP Table 11.6.

## 6.7. Statement of Material Contravention

6.7.1. The applicant has submitted a Material Contravention Statement in relation to the matters of contravention of LAP policies/objectives on residential density, drainage infrastructure and development phasing. The main points made may be summarised as follows:

### 6.7.2. Section 37(2)(b)(i) Development is of Strategic or National Importance

- The development meets the legislative definition of SHD and can therefore be deemed of strategic importance with respect to the timely delivery of urban housing and implementation of the current Government's Action Plan for Housing and Homelessness – Rebuilding Ireland. It is also in accordance with NPF Objective 3a to deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and NPO 33 to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

### 6.7.3. Section 37(2)(b)(iv) Pattern of Development and Permissions Granted in the Area

- This is the fourth phase of development at the Portmarnock South Lands, referred to as Phase 1D, subsequent to the previously permitted Phase 1A (F13A/0248), Phase 1B (ABP-300514-17) and Phase 1C (ABP-305619-19). The proposed Phase 1D is the last phase of Growth Area 1 of the Portmarnock South LAP. It will increase housing and facilitate the construction of Skylark Park and two linear parks with an extension to Railway Linear Park and the connection to Mayne Road by the construction of a permanent road. Therefore, the granting of

permission can be justified by reference to the pattern of development, and permissions granted, in the area since the making of the development plan.

#### 6.7.4. Residential Density

The following points are made in relation to consistency with LAP policy on residential density:

- The application includes an Aviation Public Safety Zone Assessment, which considers the densities proposed adhere to the limits applicable within this Outer Public Safety Zone as dictated by the Environmental Resource Management (ERM) Report (2003).
- The LAP refers to up to 1,200 units within the plan lands, with an average minimum density of 35 units/ ha and an average maximum density of 42 units/ha. There is a continual balance to be struck between seeking to attain the density provided for within the LAP and still adhering to the public safety provisions set out in the ERM Report. The LAP advises that the RA lands have the potential to achieve up to approx. 1,200 residential units based upon a density of c. 42 units/ha, which accords with airport safety zone criteria.
- The applicant provides a detailed analysis of the proposed net residential density, excluding the Townland Boundary Linear Park, Skylark Park, Railway Linear Park, landscaped southern edge of site, Inter-Monument Route, primary link road to the south and secondary road link to junction with primary road where not servicing units in this phase. The development achieves a net density of c. 32.3 units/ha on this basis. The Aviation Public Safety Zone Assessment indicates that the layout is compliant with the Public Safety Zone requirement of no more than 60 no. persons per 0.5 ha.
- The development is consistent with other LAP objectives relating to building height, views and transition to open space located to the south and east of the LAP lands.

#### 6.7.5. Drainage Infrastructure

The following points are made in relation to consistency with LAP policy on drainage infrastructure:

- Notes LAP section 11.6 and Objective WW1, which state that the IW pumping station and associated outfall will need to be commissioned following the completion of the first 100 no. units.
- The applicant has consulted with IW, and it was demonstrated that there was sufficient capacity within the existing Mayne Road pumping station to cater for that development, notwithstanding the provisions of the LAP.
- The development includes works to the temporary wastewater pumping station constructed under ABP-300514-17, which will be removed once the permanent solution is operational.
- IW issued an updated Confirmation of Feasibility in October 2021, which confirms connection to the foul network is feasible subject to the upgrade works being carried out the temporary pumping station.
- The envisaged timeline for delivery of the new IW Portmarnock Bridge pumping station is c. 2025.

#### 6.7.6. Development Phasing

The following points are made in relation to LAP policy on development phasing:

- LAP section 11 sets out phasing and sequencing of development. It identifies two growth areas with two sub-phases of development in each growth area.
- The proposed development Phase 1D forms the next logical and sequential step in the development of Growth Area 1 as set out in the LAP phasing requirements. The remainder of the units will be located directly east to form a build edge to Skylark Park and the linear park extending south.
- The applicant submits a rationale for this minor deviation from the LAP phasing as follows:
  - The proposed configuration with the Skylark Park at its centre, is a more logical and efficient design layout to ensure efficient construction delivery of housing, with a new estate access road to be opened to Mayne Road as part of the design.
  - A phase of c. 172 no. units will be delivered over a 2+ year build programme and the strong market demand and future housing needs will

ensure easy absorption of this velocity of housing delivery at St Marnock's Bay.

- Development will front onto Skylark Park from all sides improving passive surveillance much sooner than provided for in the LAP.
- Improved continuity of construction and less impact from having to extend haul roads.
- The applicant notes that the LAP provides for a degree of flexibility in terms of linking development to infrastructure, in recognition that a developer may be in a position to deliver a part of a site before others, subject to the provision of clear connectivity between growth phases, to the train station, to local services and open space. The development provides a new road and good connections to the wider area.

## **7.0 Third Party Submissions**

7.1. There are three no. third party submissions from local residents, They do not object to the development in principle, but raise concerns in relation to the following matters.

### **7.2. Third Parties General Issues**

- An observer was unable to locate the EIAR on the Board's website, as required by Regulation 301(2A) of the Planning and Development Regulations 2001 (as amended) but did find it on the dedicated website under an unnamed tab in the top righthand corner of the site.
- No site notice location map online.
- NPWS and An Taisce do not appear to be prescribed bodies.
- The pre-planning was not subject to public consultation.
- The inability of the public to read prescribed bodies submissions and comments before making their own also is an issue under Aarhus Convention public participation.
- Water Framework Directive issues with local water bodies at risk status and unassigned status.

- The permission of ABP-305619-19 limited site development and building works from 0700 to 1900 hours Mondays to Fridays inclusive, and between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Permitting construction from 0700 in an existing residential area is too early. Works should not be permitted to commence before 0800. A compromise of 0730 would also be acceptable.

### **7.3. Third Party Comments on Residential Density**

- The Board is referred to a recent High Court decision permitting the Abbey Park and District Residents' Association Baldoyle to bring a judicial challenge to permission granted by An Bord Pleanála under ABP-311016-21.

### **7.4. Third Party Comments on Traffic and Transportation Issues**

- The applicant has not complied with condition no. 2 of ABP-305619-19 relating to St. Marnock's Bay Phase 1C, which requires junction upgrades at the R124/ Station Road and Strand Road/Coast Road/Station Road junctions. While the applicant suggests that junction upgrades will be commenced in the first quarter of 2022, the Board should not permit the proposed development until these junction upgrades have been permanently completed. The failure by FCC to implement the junction upgrades results in significant safety risks for pedestrians, cyclists and road users. While FCC has proposed interim measures, these do not appear to be in keeping with the imposed conditions. One observer has failed to access information/documentation relating to this matter from FCC under the Freedom of Information Act and there has been no public consultation in relation to this matter.
- Issues relating to compliance with condition 2(c) of ABP-305619-19 regarding the use of Station Road by construction traffic. All efforts should be made to ensure construction traffic does not traverse existing residential areas.
- The previous phases of St. Marnock's Bay do not connect with the Portmarnock/Baldoyle pedestrian and cycle route. This connection should be completed before the commencement of any construction of the proposed Phase 1D.

- The traffic impacts of the development on St Marnock's Bay have not been adequately assessed in submitted TTA or EIAR.
- The traffic surveys for the TTA were carried out in February 2019 and should not be relied upon by the Board for an application submitted in December 2021. The "factoring-up" to 2021 figures has not been justified by reference to any Guidelines or policy. Updated surveys should have been carried out. In particular, the TTA should have taken into account the likely impact of upgrade works at Mayne Road, which are now complete and have significantly altered traffic flow in the area. Traffic patterns in the area may be changing post-Covid.
- No weekend junction surveys were carried out in 2019 although Portmarnock is known for its beach and is busier at weekends, especially in the summer months. The coffee shops and retail at the new local centre under construction on Station Road will also contribute to an increase in weekend traffic in the area. A summer survey should also have been carried out.
- The TTA and the 2019 surveys fail to assess the junctions at the two entrances to St Marnock's Bay from Station Road. Risk of traffic using St Marnock's Bay as a 'rat run' to avoid other overloaded junctions in the area.
- The TTA does not carry out an adequate cumulative assessment on the impact of traffic on St Marnock's Bay from other developments in the area. No consideration of additional traffic from the Vesta development complex on Marsfield Avenue, which adjoins the development site and has opened since the 2019 surveys were carried out.
- If permission is granted for the development, the new local centre currently under construction at Station Road will also result in additional traffic moving within St Marnock's Bay, which has not been captured in the surveys or assessment.
- The EIAR and NIS are required to be based on the most up-to-date available information.
- EIAR Chapter 13 (Traffic) does not use the impact assessment methodology recommended in the EPA 2017 Draft Guidelines, or any other distinguishable methodology to demonstrate that the (a) sensitivity of receptors; (b) magnitude of impacts and (c) significance of impact have been properly assessed. The chapter

does not carry out a cumulative assessment on other projects in the area which have been granted planning permission. The chapter is also flawed in that it seeks to rely on Traffic Management Plan which will be agreed with FCC at a later date in order to mitigate against construction phase impacts.

- The TTA and application as a whole fail to identify adequate specific traffic management and calming measures which will be put in place. It is not appropriate for these to be left to be agreed with FCC post consent, in circumstances where (a) the impacts have not been properly assessed and (b) the applicant has not yet completed (or even started) the upgrade of the Station Road/Drumnigh Road junction and the Strand Road/Coast Road junction, as required by condition no. 2 of ABP-305619-19. The TTA states that these upgrades will commence in January 2022. However, this condition should be satisfied before the commencement of works. It is premature for the Board to grant further permission until these upgrade works have been completed in full and an up-to-date TTA and EIAR submitted.

#### **7.5. Third Party Comments on Social Infrastructure**

- A soft play area permitted under ABP-300514-17 has not been properly completed and was left in a degraded condition. This matter should be resolved before construction of Phase 1D commences. In addition, an existing playground at the Railway Linear Park within Phase 1A has not been taken in charge by FCC and remains under the control of St Marnock's Bay Owners' Management Company. Play areas and open spaces should be taken in charge immediately upon completion.
- The submitted Social Infrastructure Report (SIR) is lacking in several respects.
- No cumulative assessment of childcare needs has been carried out and the previous phases of St Marnock's Bay have not been taken into consideration. It is not sufficient for the applicant to simply assess school capacity for the proposed 172 units, without reference to cumulative development, which would also be competing for any new childcare spaces which arise. The assessment is based on 2016 Census data, however additional population has arisen as a result of the St Marnock's Bay Phases 1A, 1B and 1C, which should be taken into account, particularly as the majority of people who purchased houses in these



developments have children of or now approaching childcare and/or school going age.

- The SIR refers to a statement by the DoE, which anticipates that enrolment figures for primary schools in Ireland will begin to gradually fall from at peak levels this academic year (2020/ 2021) onward, in line with revised migration and fertility assumptions for the country as a whole with future implications of COVID-19 in mind. It is submitted that such comments and projections do not form a part of planning policy, are not Guidelines, and cannot be relied upon by the Board in assessing whether the lack of childcare provision is in accordance with proper planning and sustainable development.
- The SIR list of educational facilities (primary and secondary schools) is based on a list of facilities provided in the Portmarnock South LAP. These facilities are within a defined range of the development. The Department of Education and Skills (DES) does not follow any such rule and in fact it dictates the catchment area to schools who in general must prioritise the designated area in their admissions policy. The DES catchment area planning map indicates just four primary schools and one secondary school within the catchment of the development site. The availability in these schools should be considered with regard to the rates of over subscription for available spaces in each class. The local primary schools have an agreement which delineates the catchment into two areas South and North Portmarnock. The school in North Portmarnock (St. Helen's) should not be included in any updated educational needs audit. School admissions policies should also be taken into consideration. Portmarnock Community School, the only secondary school in the DES catchment area, has been substantially oversubscribed in recent years. The lack of capacity in local schools is a political issue, which has been raised at national level.
- The SIR concludes that demand for school places would not be felt immediately by local schools' infrastructure in the vicinity, due to the time that it will take to secure planning permission, construct, and occupy the proposed development, which would allow the DES and the planning authority to manage any potential significant additional demand for school places in this area through the development plan process. Without concrete social infrastructure and school expansion to point to in the current development plan, it cannot be said that the

development would be consistent with the proper planning and sustainable development of the area.

- The SIR does not properly address the lack of available spaces in local childcare facilities or schools. SIR Table 7 shows that there are no spaces available in any of the childcare facilities in the area. The waiting lists for these facilities are significant. There is currently a severe lack of childcare facilities and spaces for the growing population in the area.
- Although the LAP precludes the provision of additional childcare on the lands, this does not absolve the applicant from being required to demonstrate that the development is in accordance with proper planning and sustainable development and the other requirements of the development plan.

#### **7.6. Third Party Comment on Wastewater Infrastructure**

- Planning permission should not be granted until long term and permanent arrangements are put in place for the management of wastewater at St Marnock's Bay. It is not appropriate to continue to load, expand and upgrade the temporary pumping station for such a large scale residential development (Phases 1A – D). Without long term arrangements in place, there is significant uncertainty in respect of the environmental impacts which are likely to arise. As such, both the NIS and EIAR are defective, insufficient and fail to properly assess the likely impacts on the environment or European sites.

#### **7.7. Third Party Comments on Environmental Issues**

- Many of the bird surveys that informed the AA of the Portmarnock LAP pre-date 2012. No updated surveys have been carried out on-site in relation to the use of the Maynetown lands by overwintering birds connected to Baldoyle Bay SPA/SAC, Bull Island SPA/SAC, Malahide Estuary SPA/SAC and Howth Head SPA/SAC. Nor have any up to date surveys been carried out on breeding birds for which the area is known (Skylark, Lapwing). One observer has recorded light bellied brent geese feeding on the lands, outside of the Bird Quiet Zone disturbance protection compensatory habitat.
- The Bird Quiet Zone designated as part of the Portmarnock South LAP 2013 was informed by surveys carried out in 2011 and a scientific paper dating to 2009,

which identified the Maynetown lands as being important feed and roosting grounds for Special Conservation Interests of the Natura 2000 network, in particular Baldoyle Bay SAC and SPA. The NIS for the Portmarnock South LAP also identifies the same area as a feeding site for a number of qualifying species for the SPA. The LAP refers to informal consultation undertaken with Irish Brent Goose Research Group regarding lands to the south of the LAP area (Baldoyle-Stapolin) and the Portmarnock South LAP lands, which noted that the LAP lands used by Brent geese is dependent on whether, and where, winter cereals have been planted, with the geese being attracted to winter cereals. It was noted that this was not the case during the 2012/2013 winter, in the past large numbers (1000+) have been observed, particularly in the field which slopes up from the coast road within the east of the LAP lands. The same report lists main pressures and threats to light bellied Brent geese habitats, which have not been discussed in the NIS or EIAR.

- The wintering bird survey of the lands surrounding the Baldoyle Estuary December to February 2011 – 2012, which was commissioned as part of the Portmarnock South LAP, states that the surrounding farmlands, amenity grasslands and golf club lands are important habitats for birds linked to the Baldoyle Estuary and should be viewed as being ecologically linked and not divorced from the estuarine areas. The survey found that the surrounding arable farmland in particular is an important feeding habitat for wader species from the estuary as well as winter finches, skylarks and buntings. The AA identified that the plan would remove important feeding and roosting habitat and incorrectly proposed inadequate mitigation measures rather than the compensatory measures required. These steps were then and continue to be in breach of the Habitats Directive and Birds Directive. The measures proposed, comprising the designation of the Bird Quiet Zone, the clearing of Murragh Spit and the availability of existing sports pitches in the area for feeding are insufficient and in breach of the Habitats Directive for the following reasons:
  - The Bird Quiet Zone was already within the area identified as a feeding area and already in use, for Brent Waders. You cannot mitigate or compensate with the same land that is being impacted by a project.

- The Murragh spit was already within the Baldoyle Bay SPA and therefore cannot be considered as creating habitat to mitigate habitat loss.
- The existing sports pitches were already used by the Brent Waders for Feeding at that time as per the report of Benson (2005) so the availability of these pitches could not be considered.
- This issue has arisen in another Board decision, ref. ABP-302225-18, which relates to lands east of St. Paul's College, Sybil Hill Road, Raheny, Dublin 5.
- If the competent authority considers that the mitigation measures are sufficient to avoid the adverse effects on site integrity identified in the AA, they will become an integral part of the final plan or project or may be listed as a condition for project approval. If, however, there is still a residual adverse effect on the integrity of the site, even after the introduction of mitigation measures, then the plan or project cannot be approved (unless the conditions set out in Article 6(4) are fulfilled). The test was not applied to the Maynetown lands in relation to appropriate compensation habitats. It is clear that the physical site size of feed habitat lost was not equally mitigated or compensated for by the creation of equivalent sized feeding habitat on new lands not already used or designated for the protection of SCIs of Baldoyle SPA. As such all NIS and AA for any further development on this land including this application, must under law take in the failure to compensate like for like for the loss of feeding and roosting habitat.
- The development would involve the loss of designated feeding and roosting habitat from the Bird Quiet Zone for a wetland to treat the run-off from the new road. This land is an ex-situ feeding site under the Birds Directive and any loss of feeding habitat must be assessed and compensated by providing additional habitat elsewhere. As this area is supposed to be proactively seeded and managed as a feeding source for Brent Geese as mitigation (albeit incorrectly applied) for the destruction of former feeding habitat when lands were rezoned. The developer cannot then use the land to accommodate their SuDS requirement. In addition, the wetlands, which are a feeding area, should not be used to collect run-off from an access road, which is polluted with hydrocarbons, micro plastics and other dangerous substances.

- There is no AA of wastewater capacity issues. The Portmarnock and Mayne pumping stations are overloaded and regularly overflow to the Mayne and Sluice watercourses, which are pathway receptors to Baldoyle Bay SAC. The main CSO for the North fringe sewer also overflows on the Coast Road Baldoyle regularly. The EIA and NIS have no cumulative impacts of these overflows and do not have any meaningful assessment of the capacity of the local network. The development is a material contravention of the Portmarnock South LAP in that the LAP only allowed for 100 units to be developed with a temporary foul storage arrangement and that any future developments could only take place once the Portmarnock pumping station had been upgraded. Since then, two further developments have been allowed in breach of the LAP and of the County Development Plan.
- It is unlikely that the current application for the Portmarnock pumping station will be successful as (1) Irish Water has installed part of the development already without valid planning permission, without AA or EIA, and it is unlikely that substitute consent would be granted as the development does not meet the criteria and (2) a new survey of the Sluice lands carried out by FCC has identified new areas of Annex 1 Species which are SCIs of Baldoyle SAC within the pumping station application site, which will most likely preclude any development. The subject SSFRA confirms that the proposed pumping station site floods. The applicants and IW both rely on the future upgrade of the Portmarnock pumping station and do not carry out any assessment of network overflows to Baldoyle SAC/SPA that may be caused by this development alone or in cumulation with other developments.
- The area where the temporary wastewater storage and pump are located has a surface water outfall that discharges to the Millrace stream, which runs directly into Baldoyle SAC.
- The SuDS retention pond has been filled in and there is evidence that the storage tank overflowed (supporting photographs submitted).
- Malahide shellfish waters are Designated Class A which is the highest standard achievable. The Seafood Protection Authority (SFPA) were consulted on this issue on the Portmarnock South Phase 1B in relation to the SuDS wetland outfall,

but they were not listed as a prescribed body in this instance. Potential effects on the designated Malahide Shellfish and the specified shellfish area off Portmarnock and Baldoyle should be assessed and the SFPA should be consulted as they are the notification authority for any potential pollution contamination to the Malahide shellfish waters.

- In light of the ongoing recent raw sewage discharges from Ringsend WWTP and the stormwater overflows and combined sewer overflows of the Ringsend agglomeration into Dublin Bay and waters north of Howth, (which this development site will be directly connecting to), adding to an already over capacity network both local and regional (Ringsend), will likely cause a discharge directly into Dublin's SACs and SPAs, either due to overloading, mechanical failure or normal operation in heavy rainfall. This is a likely significant effect that cannot be mitigated against.
- If the Board was to rely on the future upgrade of Portmarnock pumping station in the first instance and Ringsend WWTP in the second instance at some future date to screen out the current capacity issues, and the highly likely significant impacts of additional raw sewage overflows to the Natura 2000 Network most immediately at the Portmarnock pumping station overflow at the Sluice River and the Mayne pumping station at the Mayne river, then they would be in breach of environmental legislation.
- Other issues associated with the impact of vehicle headlights and access road lighting on roosting birds and insects in a current dark zone not assessed; culvert and concrete structure for this application looks as if it has already been built under temporary road application from January last year; proposed swale to south of quiet zone is already a form of water body (an unmarked stream) that is constantly filled with water and has no further run-off retention capacity; proposed SuDS are not in compliance with the SuDS strategy in the Portmarnock South LAP Appendix 1, particularly in relation to pollutant interception and number of interceptions required for each method; many of the SuDS proposals will not prevent micro plastics, herbicides, chemicals from draining into Baldoyle Estuary which is in breach of the overarching reason for such stringent SuDS guidelines for the Portmarnock South LAP; new emergency retention pond is not yet managed as a wetland and appears to be taking the majority of run-off from

Catchment 2; the original wetland does not appear to be collecting water and is very low even after heavy rainfall, it may not be operational; mitigation measures from the Portmarnock South LAP (section 5.2.1) that were supposed to be in place before construction started have not been implemented.

## **8.0 Planning Authority Submission**

8.1. Fingal County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members at an Area Committee meeting on 12<sup>th</sup> January 2021. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) may be summarised as follows.

### **8.2. Views of Elected Members**

8.2.1. The issues raised by the elected members at the Area Committee Meeting of January 12<sup>th</sup> 2021, as presented in the CE report, may be summarised as follows:

- High car parking provision in contravention of national planning policy.
- Concerns about pedestrian safety at road junctions.
- Drawings of the proposed Mayne Road junction are unclear.
- No detail of how existing agricultural bridge to the west of the site is to be incorporated into the scheme.
- Very important to ensure that surrounding traffic network upgrades to Station Road and the Coast Road are in place before more residential development is built.
- SuDS proposals should be in line with development plan requirements and the use of underground storage and attenuation ponds should not be permitted.
- Concern about lack of capacity in the foul network.
- Concerns about flooding.
- Duplex units are unsuitable for Part V. Apartments with lifts for universal access would be preferable.

### 8.3. FCC Planning and Technical Analysis

8.3.1. The following points are noted.

#### 8.3.2. FCC Comment on Principle of Development, Density, Housing Mix and Phasing

- The site is located within the Outer Safety Zone of Dublin Airport, where a maximum density of 60 persons/0.5 ha applies as per the ERM report. The approach set out in the applicant's Material Contravention Statement has been accepted by both FCC and ABP in granting permission for previous phases of the development on the LAP lands. The proposed density is therefore acceptable to the planning authority.
- Notes phasing set out in LAP Section 11. The planning authority supports the development in principle.

#### 8.3.3. FCC Comment on Design and Layout of Development

- The planning authority does not have any significant concerns about the layout and visual appearance of the development. It is considered that the development follows on and ties in with the adjacent previously permitted phases at the wider LAP lands.
- As the development forms the fourth phase of development within the LAP lands, it is important that it can stand on its own merits and not just be amalgamated and somewhat lost within the existing scheme. The planning authority considers that the development successfully achieves this with the variation in unit types and finishes proposed. It considers that the development has high architectural merit.
- The proposed housing mix is considered acceptable.
- Impacts on adjacent residential amenities are not anticipated. The Board should satisfy itself that there are no internal residential impacts arising from overlooking, etc.
- FCC Parks and Green Infrastructure Department report dated 14<sup>th</sup> January 2021. Notes that the open space provision has been addressed on-site with the exclusion of incidental/environmental and linear spaces as per development plan



Table 12.5. The submitted landscaping plan is acceptable subject to amendments, which may be required by condition.

- The tree survey and protection plan are acceptable.

#### 8.3.4. FCC Comment on Roads, Transportation, Car and Cycle Parking

- Includes report of FCC Transportation Planning Department (undated).
- The surrounding road network is significantly lacking in terms of pedestrian footpaths and cycle facilities. The Active Travel Section of FCC is undertaking an assessment of the surrounding area to locate opportunities to provide for safer connections from the subject lands to Portmarnock Village and the wider cycle and pedestrian network.
- An existing bridge over the railway line to the south west of the development has been identified as a pedestrian and cycle link connecting the lands under development at Drumnigh Road (PL06F.244401). ABP granted permission subject to a condition requiring a cycle/pedestrian link over the bridge. The subject development should similarly make provision for this pedestrian and cycle connection along the western side of the site between the bridge and the railway station. The planning authority requests that the Board impose a similar condition in this case.
- The roads layout ties in with the previous permissions. Several straight runs would require traffic calming as the slight bends in the roads are not sufficient to passively reduce vehicle speeds in these areas. Notes that there is a significant prevalence of on-street parking in the existing development.
- The proposed new Mayne Road access is welcomed and would improve the safety of the existing Station Road/Drumnigh Road junction.
- The upgrade of the Station Road/Drumnigh Road junction is addressed in the TTA, a relevant condition should be imposed to ensure that this essential upgrade is delivered.
- Car parking for the development is consistent with development plan standards. The bicycle parking should be relocated to achieve better passive supervision, with separate provision for covered visitor cycle parking.

#### 8.3.5. FCC Comment on Drainage and Site Services

- Incorporates report of FCC Water Services Department dated 24<sup>th</sup> May 2021.
- The proposed surface water design is generally acceptable.
- The proposed finished floor levels are deemed appropriate for the coastal location, high-end future scenario and the flood route mapping is noted. Notes that the site is entirely located within Flood Zone C.
- Notes IW Updated Confirmation of Feasibility, which confirms connection to the foul network subject to works to the temporary pumping station permitted under ABP-305877-19. Having regard to the confirmation of connection from IW, this should satisfy that the development can be accommodated within the existing foul network. The current IW application for a pumping station at the junction of Station Road and Strand Road is also noted.
- No concerns regarding IW water supply.

#### 8.3.6. FCC Comment on Other Matters

- Report of FCC Heritage Officer dated 3<sup>rd</sup> December 2021. A condition requiring archaeological monitoring is recommended.
- The planning authority has expressed concern regarding the apartment and duplex unit Part V being concentrated in one particular area of the development. The Board should consider requesting that this be amended to provide for a more equally distributed offering.

### 8.4. **FCC Recommendation**

- 8.4.1. The development is considered to be in accordance with development plan objectives. The planning authority recommends permission subject to conditions. None of the conditions recommended requires any significant change to the proposed development.

## 9.0 **Prescribed Bodies**

### 9.1. **Transport Infrastructure Ireland**

- 9.1.1. No observation to make.

## 9.2. Irish Water

9.2.1. The following points are noted from the Irish Water submission dated 17<sup>th</sup> January 2022:

- The development crosses the proposed Greater Dublin Drainage (GDD) pipeline corridor, which is a critical piece of infrastructure for the region. Depending on the relative timing of the development, it may be progressed ahead of the GDD project. In this scenario, it would be necessary to construct the GDD outfall pipeline through the permanent infrastructure proposed within the development.
- The applicant has confirmed that the existing constructed phases of development and proposed future phases will have access to two other existing entrances off Station Road. This would permit the closure of the Mayne Road access to facilitate the construction of the GDD outfall pipeline, subject to the necessary discussions/permissions with FCC.
- The applicant confirmed that surface water drainage and public lighting were the only proposed services to be installed in the new Mayne Road access road, and these can be interrupted during GDD construction works.
- The applicant has confirmed that, subject to planning permission, all works to the proposed SuDS pond and associated drainage pipes within the GDD corridor are planned to be completed early in the works programme. When these works are complete, there will be no permanent infrastructure in the GDD corridor. In the event of any clash in construction timelines between the two projects, the applicant has agreed to curtail the drainage works area to lie outside the GDD corridor.

## 9.3. Irish Rail

9.3.1. The submission of Irish Rail sets out detailed requirements regarding the interaction of the development with the railway line including site levels, topography, drainage, boundary treatments, landscaping, lighting, noise and vibration impacts and construction impacts including at the adjacent railway bridge. The following points are noted in particular:

- The Railway Safety Act 2005 places an obligation on all persons carrying out any works on or near the railway to ensure that there is no increase in risk to the

railway as a consequence of these works. Because of the proximity of the site to the railway, the Developer must take into account this obligation in the design, construction and operation of the development. The proposed development has the potential to significantly impact the safety of the operational railway. The applicant is required to engage with Iarnród Éireann seeking advice on technical requirements for mitigating impacts on railway infrastructure and operations.

- It is probable that the development encroaches onto CIÉ/Iarnród Éireann lands. The applicant is advised to engage with Iarnród Éireann to provide detailed cross sections with a view to agreeing the line of the proposed boundary treatment.
- The DART+ Coastal Project (Northern Line) is underway and is currently at Phase 2 Project Concept, Feasibility & Option Selection. As a consequence of the estimated land take required to facilitate a works corridor for the track and bridge upgrade, no development is to take place within an area 25m east of the nearest running edge of the rail without the written permission of Iarnród Éireann. This also includes the positioning of any access road, soakholes or percolation areas.
- The submission sets out detailed requirements regarding the interaction of the development with the railway line, including in relation to drainage, landscaping, installation of site services, lighting and boundary treatment. Also requirements relating to the construction phase of the development, including construction traffic management.
- The development should take account of potential noise and vibration impacts that an active railway may have on sensitive receptors. It is recommended that the applicant incorporates best practice principles in the design using BS8233 - Guidance on Sound Insulation and Noise Reduction for Buildings.

## 10.0 Assessment

10.1. The following are considered to be the principal issues for consideration in this case:

- Principle, Quantum, Density, Height of Development and LAP Phasing
- Design and Layout of Development
- Impacts on Visual and Residential Amenities
- Movement and Transport
- Water and Wastewater Infrastructure
- Surface Water Drainage and Flood Risk
- Social Infrastructure
- Noise
- Part V
- Material Contravention Issues

These issues may be considered separately as follows.

NOTE: The applicant has submitted a Material Contravention Statement in relation to the matters of residential density, drainage infrastructure and development phasing. The relevant technical matters and related development plan and LAP policies and objectives are addressed in each section, with the legal provisions in relation to Material Contravention dealt with separately below.

### 10.2. Principle, Quantum, Density, Height of Development and LAP Phasing

#### 10.2.1. Zoning

The majority of the development site, and all of the proposed residential units, are located within lands zoned 'RA' for new residential development under the Portmarnock South LAP with the following stated objective:

*Provide for new residential communities subject to the provision of the necessary social and physical infrastructure.*

Residential development is permitted in principle under the RA zoning objective. Lands to the immediate south of the site are zoned 'OS' with the stated objective:

*Preserve and provide for open space and recreational amenities.*

The OS zone is also designed as an 'Ecological Buffer Zone' under the LAP, which sets out related specific objectives including the designation of the area as 'Racecourse Regional Park North'. The proposed connection to Mayne Road is located within the OS zoned lands. However, both development plan map no. 9 and the LAP indicate a roads objective traversing the OS zoned lands at the approximate location of the proposed connection, noting also that development plan Local Objective 88 states:

*This road improvement route is not fixed or indicative. It could be along the existing Mayne Road alignment or another alignment*

The two SuDS surface water features associated with the road, which are located in the OS zoned lands, are to be landscaped and developed as amenities, which integrate with the existing open space at this location. I note the comments of third parties regarding the compatibility of the proposed SuDS with the OS zoning of this area and its status as an Ecological Buffer Zone. I consider that the proposed SuDS features are compatible with the OS zoning objective, noting that the planning authority states no objection in principle and that the use classes 'open space' and 'recreation facility' are permitted in principle under the OS zoning objective. Potential associated environmental issues are considered separately below in the context of AA and EIA. The development is therefore considered to be acceptable in principle overall.

#### 10.2.2. LAP Phasing

LAP figure 11.0 indicates 'Growth Areas' nos. 1 and 2, each subdivided into two phases, which are to be sequentially developed as Phases 1, 2, 3 and 4. LAP section 11.1 states:

*... residential development should generally occur from the train station and Station Road towards the east and south with the small service centre occurring in tandem with the earlier phases of residential development i.e. going from a west to east progression.*

LAP section 11.3 states that individual planning applications for each phase shall generally not exceed 150 units. The current proposal is in accordance with these

provisions, which includes 129 no. units in Growth Area 1 and 43 no. units in Growth Area 2 (see further discussion below) is considered to be consistent with this provision, following on from the following previous permissions on lands to the north and west of the development site, within the first and second phases of LAP Growth Area 1, which are now known as the St. Marnock's Bay development:

Ref.	Phase	No. of Units	Density / Mix	Infrastructure Provided / Non-Residential Development
F13A/0248 Completed	Phase 1A	101	31 units/ha  All houses	Connection to Station Road  Extension to existing pedestrian/cycle route on Station Road  Northern part of Railway Linear Park
ABP-300514-17 Completed	Phase 1B	150	19 units/ha  52 apts  98 houses	Second connection to Station Road  Pedestrian/cycle route at Station Road  Open space at Portmarnock Burial Mound  Secondary open space at eastern side of site with detention pond  Incorporates part of townland boundary and part of the inter-monument route  Temporary wastewater pumping station and wastewater storage tank  Regional wetland area at Strand Road
ABP-305619-19 Under construction	Phase 1C	153	37 units/ha  40 apts  113 houses	Local centre at Station Road containing 3 no. retail units, café, restaurant and medical unit  Incorporates part of townland boundary
Current proposal ABP-312112-21	Phase 1D	172	32.3 units/ha  22 duplex/ apts  150 houses	Skylark Park, Railway Linear Park  Linear parks at townland boundaries  Part of inter-monument route

The applicant's Architectural Rationale and Statement of Consistency set out an overall development framework for the provision of 982 no. units at the entire

landholding within the LAP area, including the above previous Phases 1A, 1B and 1C, the current proposed Phase 1D and potential future developments at zoned lands further to the west of the current development site. It is stated that the framework has been developed in consultation with FCC. In this context, the proposed Phase 1D comprises 172 no. units (150 no. houses, 22 no. apartments/duplex units). It includes the public open space Skylark Park, which will serve the wider LAP area, and incorporates part of the linear park at the townland boundary and the inter-monument route, as provided for under the LAP. The development will connect to Station Road and to Portmarnock railway station via the previous phases of St. Marnock's Bay and will provide a new vehicular/pedestrian/cycle connection to Mayne Road to the south, which will serve the overall LAP lands. Having regard to the LAP phasing map, I concur with the applicant that the current proposal is the next logical step of the overall development of the LAP lands. While most of the residential units in the development are within the second phase of Growth Area 1, I note that part of the development is located to the east of Skylark Park and the townland boundary, which form the edge of Growth Area 1, such that 43 no. houses are located within Growth Area 2, within an area identified as 'Phase 4' on the LAP phasing map. The applicant submits the following rationale for this deviation from the LAP phasing:

- This proposed layout is a more logical and efficient design layout to ensure efficient construction delivery of housing, with a new estate access road to be opened to Mayne Road as part of the design.
- The development will deliver c. 172 no. units over a 2+ year build programme and the strong market demand and future housing needs will ensure easy absorption of this velocity of housing delivery at St Marnock's Bay.
- The development will front onto Skylark Park from all sides improving passive surveillance much sooner than provided for in the LAP.
- The proposed layout will provide improved continuity and less impact from extended haul roads during construction.

These points are considered reasonable. The issue of LAP phasing is also addressed in the applicant's Statement of Material Contravention.



LAP Table 11.6 sets out the infrastructural requirements for Phases 1 and 2 of Growth Area 1. Given that the proposed development is the final part of Phase 2 of Growth Area 1 (albeit it includes 43 no. houses within Growth Area 2), all of the requirements for Growth Area 1 may be considered as follows (see related sections below for further discussion/comment on each issue), with regard to the applicant's Planning Report and to observations at site inspection:

<b>Infrastructure Type</b>	<b>LAP Requirements for Phases 1 and 2 of Growth Area 1</b>	<b>Current Status</b>
<p><b>Open Space and Recreational Amenity</b></p> <p><b>Green Infrastructure</b></p>	<p><u>Phase 1</u></p> <p>Linear park from Station Road to north of Skylark Park and associated 20m landscape corridor completed.</p> <p>Archaeological buffer zone around National Monument DU015:014 - Portmarnock Mound completed.</p> <p><u>Phase 2</u></p> <p>Linear Park and associated 20 m landscape corridor linking to Station Road and Moyne Road fully completed.</p> <p>Skylark Park completed including children's playground.</p> <p>Eastern section of inter-monument green axis completed to its intersection with Linear Park</p>	<p>Linear park from Station Road to north of Skylark Park complete as part of Phase 1B.</p> <p>Open space at Portmarnock Burial Mound permitted under Phase 1B now complete.</p> <p>Part of inter-monumental route complete as part of Phase 1B.</p> <p>The current proposed development includes three public open spaces comprising Skylark Park (including a children's playground), the Central Linear Park and Railway Linear Park as well as the Inter-monumental Route and link road to Mayne Road.</p> <p>Existing townland boundaries are to be retained and integrated into the development.</p>
<p><b>Local Services</b></p>	<p><u>Phase 1</u></p> <p>Small Services Centre commenced</p> <p><u>Phase 2</u></p> <p>Small Services Centre completed.</p>	<p>Local centre containing 3 no. retail units, café, restaurant and medical unit permitted under Phase 1C is under construction.</p>
<p><b>Water and Drainage</b></p>	<p><u>Phase 1</u></p> <p>Prior to the occupation of any new dwellings on site the applicant shall ensure that the existing pumping</p>	<p>Phase 1B as permitted includes a temporary pumping station, which has been constructed.</p>

	<p>stations have been appropriately assessed (including AA, as applicable) and upgraded to provide for any additional load, which shall in any event not exceed 100 residential units.</p> <p>The continued use of the existing pumping stations at Portmarnock Bridge and/or Mayne Road shall be considered an interim situation to serve no more than 100 additional dwellings and the applicant/developer shall demonstrate compliance with this in the making of any planning applications for these lands.</p> <p>Pumping Station and associated outfalls completed and operational following the completion of the first 100 dwellings and prior to the commencement of further development.</p> <p>Internal network of foul sewer, surface water sewer and water mains completed. Pipeline corridor shall be incorporated within internal road network and vehicular crossing points where it traverses the linear park.</p> <p>SuDS device on northeastern corner of plan lands completed.</p> <p>Regional SuDS wetland pond completed as part of the required Habitat Protection Measures prior to the commencement of development, unless otherwise agreed and subject to Appropriate Assessment screening to ensure all downstream habitats and open habitat used by qualifying interest birds are protected.</p> <p><u>Phase 2</u></p>	<p>Regional wetland permitted under Phase 1B has been completed.</p> <p>Detention pond permitted under Phase 1B.</p> <p>The proposed development includes foul infrastructure and an upgrade to the temporary pumping station, pending the delivery of the planned upgrade to the Portmarnock Bridge pumping station, envisaged c. 2025.</p> <p>Current application for Portmarnock Bridge pumping station F21A/0389 remains pending. This matter is discussed below in relation to Wastewater Infrastructure.</p> <p>Proposed development includes water connection, foul water infrastructure, SuDS measures and surface water management.</p>
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	<p>Internal network of foul sewer, surface water sewer and water mains completed.</p> <p>Surface Water Management systems completed.</p>	
<b>Movement and Transport</b>	<p><u>Phase 1</u></p> <p>Compliance commensurate with and as required by the scale of development permitted:-</p> <p>Priority pedestrian/cyclist green route east of the railway line and link to Portmarnock train station completed.</p> <p>Priority pedestrian/cyclist green route adjacent to Station Road and link to Portmarnock train station completed.</p> <p>Priority pedestrian/cyclist green route adjacent to section of linear park between Station Road and north of Skylark Park.</p> <p>Temporary pedestrian link to open space lands to the east.</p> <p>Pedestrian crossing on Station Road completed.</p> <p>Vehicular access points as indicated on the LAP map onto Station Road completed.</p> <p>Relevant section of Primary Route connecting to Station Road and street network completed.</p> <p>Hole in the Wall Road Upgrade.</p> <p>Realignment of the Hole in the Wall Road with Drumnigh Road on the R123 to create a new four arm crossroads junction commenced.</p> <p>R107 Malahide Rd Realignment Phase 1 (Clare Hall Junction) Enhance</p>	<p>Station Road cycle/pedestrian route permitted under Phase 1B complete.</p> <p>Pedestrian/cyclist green route east of the railway line and link to Portmarnock train station completed under Phase 1A.</p> <p>Priority pedestrian/cyclist green route adjacent to Station Road and link to Portmarnock train station completed under Phase 1B.</p> <p>Vehicular access points to Station Road permitted under Phases 1A and 1B are now complete.</p> <p>Pedestrian crossing at Station Road is complete.</p> <p>Primary route in Growth Area 1 to be completed under Phase 1B including all associated internal streets.</p> <p>Proposed development includes a new road connection and priority junction at Mayne Road, also pedestrian and cycle route to Mayne Road.</p> <p>The Hole in the Wall Road / Drumnigh Road upgrade is now complete.</p>

	<p>capacity of Clare Hall Junction as phase 1 of the R107 Malahide Rd upgrade or provide other improvements as may be informed by the North East Dublin Transportation Study or any updated studies in consultation with the NTA and/or NRA.</p> <p><u>Phase 2</u></p> <p>Compliance commensurate with and as required by the scale of development permitted:-</p> <p>Priority pedestrian/cycle green route alongside the linear park linking to Station Road and Mayne Road completed.</p> <p>Pedestrian crossing on Moyne Road completed.</p> <p>Internal Street network of this phase completed</p>	<p>These works have been completed.</p> <p>The current proposed development will provide a new pedestrian/cycle link to Mayne Road and new connections within the Railway Linear Park.</p> <p>Pedestrian crossing on Mayne Road and other pedestrian/cycle facilities are discussed below in relation to Movement and Transport.</p>
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I note that the development will deliver significant public amenities and can avail of the adjacent permitted/completed local centre, open spaces and vehicular/pedestrian /cycle connections to Station Road and to Portmarnock Railway Station. The development will integrate well with the permitted/completed adjacent public open spaces and will extend the Railway Linear Park, Inter-Monument Route and Townland Boundary Linear Park. While I note that observers state some concerns about the final completion of aspects of the permitted open spaces within the previous phases of St. Marnock's Bay, the overall development was observed to be completed to a high standard at site inspection and, in any case, the enforcement of previous permissions is a matter for the planning authority. I am generally satisfied that the development will provide for the delivery of green infrastructure and vehicular/pedestrian/cycle infrastructure in tandem with sequential residential development in a west to east progression with connectivity to Station Road and Portmarnock railway station, as provided for under the LAP, noting that the planning

authority states no objection to the proposed phasing and that LAP section 11.3 states:

*Whilst the orderly progression of development is fundamental to the proper planning and sustainable development of these LAP lands, a degree of flexibility will be considered in recognition that a developer may be in a position to deliver a part of a site before others. However, development which does not have clear connectivity between the two growth areas or phases to adjoining development, to the train station and local services and open space, would be considered contrary to proper planning and sustainable development of the area.*

Having regard to the above assessment, to the applicant's rationale for the proposed phasing, to the limited quantum of development involved (43 no. houses) and to LAP section 11.3, which allows for a degree of flexibility in the implementation of LAP phasing, and given that the development is directly connected to the lands within Phase 2 of Growth Area 1, I do not consider that the proposed development materially contravenes the LAP phasing.

The matters of wastewater infrastructure and local pedestrian/cycle connections are discussed further below.

#### 10.2.30. Quantum of Development and Residential Density

LAP Table 11.6 provides for 1-300 units in Phase 1 of Growth Area 1 and 301-600 units in Phase 2 of Growth Area 1. As set out above, a total of c. 404 no. residential units has been permitted on LAP lands to date. The proposed overall quantum of development is therefore within LAP parameters for Growth Area 1, notwithstanding that part of the development is located within Growth Area 2.

The development achieves a net overall density of c. 32.3 units/ha. This is based on the exclusion of the Central Linear Park, Skylark Park, Railway Linear Park, the landscaped southern edge of the site, the inter-monument route, the link road at the southern end of the site and the secondary road link to the previous phases of development. I am satisfied that this calculation is in accordance with the guidance provided in Appendix A of the Sustainable Residential Development in Urban Areas Guidelines, given that all of the above open spaces and infrastructure serve the wider LAP lands and not just the development site.

Section 5.11 of the Sustainable Residential Development Guidelines recommends net residential densities of between 35-50 units/ha at outer suburban/greenfield sites, which are defined as open lands on the peripheries of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment, and community facilities. Development at net densities less than 30 units/ha is discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 ha. The development site is located on zoned, serviced lands within the Dublin Metropolitan Area on the edge of the existing built-up area. I consider that it is consistent with the definition of an 'intermediate urban location' in the Apartment Guidelines due to its proximity to Portmarnock railway station. Section 2.4 of the Apartment Guidelines states:

*Such locations are generally suitable for smaller-scale (will vary subject to location), higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net).*

Notwithstanding the above national guidance, the site is also located within the Outer Safety Zone and the Outer Airport Noise Zone for Dublin Airport. Development plan and LAP policy impose a density restriction of a maximum of 60 persons per 0.5 ha in this area, as dictated by the Environmental Resource Management (ERM) Report (2003). The application includes an Aviation Public Safety Zone Assessment, which superimposes a 0.5 ha grid over the proposed site layout and demonstrates that the development does not exceed the requirement of 60 persons per 0.5 ha. A rationale for the occupancy rates used is provided, based on a household occupancy target of 2.68 persons per household, as set out in development plan Variation no. 2. It is submitted that this methodology has been accepted by the Board under the previous SHD application ABP-305619-19. The Architectural Rationale states that the proposed layout has been designed to ensure compliance with this requirement.

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

greenfield/outer suburban sites. The proposed density therefore achieves a reasonable balance in terms of the optimum use of zoned and serviced land adjacent to a railway station. I also note in this regard that FCC is satisfied with the proposed density.

I note that the matter of residential density is addressed in the applicant's Material Contravention Statement. However, with regard to the above assessment, I do not consider that the proposed development materially contravenes development plan or LAP policy on residential density.

#### 10.2.31. Building Height

The overall height of the development is limited by the constraints of the Outer Safety Zones associated with Dublin Airport. The development height of 1.5 -3 storeys is considered appropriate having regard to the previously permitted phases of St. Marnock's Bay and given the overarching restrictions on height and occupancy. Given that the proposed building heights are consistent with development plan and LAP policies and objectives, SPPR 3 of the Building Height Guidelines does not apply. I note in addition that third parties did not raise any issues in relation to building height.

### 10.3. **Design and Layout of Development**

#### 10.3.1. Proposed Design and Layout and Public Open Space Provision

The proposed layout is generally within the parameters of the Portmarnock South LAP and is a continuation of the previous phases of St. Marnock's Bay. It provides for the retention of the existing townland boundaries within linear parks, the southern extension of the Railway Linear Park adjoining the railway line and a large, central public open space known as Skylark Park, which includes a playground. The current proposed Phase 1D comprises the following distinct areas within the red line site boundary:

- A small area at Station Road, where the proposed upgrade to the existing wastewater pumping station is located.
- A continuation of the Inter-Monument Route that runs along a ridge between the national monuments at the northern and southern extremes of the LAP lands. This is the primary route through the LAP lands and connects to the proposed

road spur at the southern end of the site, which connects with Mayne Road at a new priority junction. SuDS features associated with the southern road connection are also within the red line site boundary.

- The Central character area at the western side of the site. This area comprises a continuation of three and four bed terraced houses at Brent Road within Phase 1C to the immediate north of the site. The proposed palette of buff coloured brick and cream coloured render materials will be a continuation of those at Phase 1C. The Central character area also contains a southern extension of Railway Linear Park, which creates a buffer between St. Marnock's Bay and the railway line.
- The Skylark character area west of the townland boundary that runs on a north/south axis through the centre of the LAP lands. This area includes the linear park at the townland boundaries and the large public open space Skylark Park, which will serve the overall LAP lands. Duplex units face the Townland Linear Park, and the remainder of the area comprises three and four bed two storey houses, except at the southern edge of the site, where 1.5/2 storey houses face the Ecological Buffer Zone OS zoned lands. The proposed houses and duplex units differ in architectural treatment and materiality from the Central character area, with grey brick and white render and projecting two storey gables that are designed to echo the nearby Portmarnock Golf Club building.
- The area to the east of the central townland boundary is within the larger Maynetown character area, as provided for under the applicant's overall framework plan for the entire landholding and is within LAP Growth Area 2 as discussed above. This area is laid out as three/four bed two storey houses facing Skylark Park and the Townland Linear Park. It also differs in materiality and architectural treatment from the other character areas, with brown brick, white render and steep pitched gable fronted units.

The applicant's Architectural Rationale and Statement of Consistency provide analysis of the development with regard to the 12 Criteria of the Sustainable Residential Development Guidelines. The application also includes a Statement of Consistency with DMURS such that the development provides a hierarchy of vehicular/pedestrian/cycle connections with the previous phases of St. Marnock's Bay. Individual streets are laid out as shared spaces. Car parking is provided within



the curtilage of individual houses, with communal visitor parking and at the duplex blocks. Enclosed cycle parking and bin storage are provided adjacent to the duplex blocks.

Development plan objective DMS57 requires a minimum public open space provision of 2.5 hectares per 1,000 population, based on an occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms. In addition, objective DMS57A requires a minimum 10% of a proposed development site area be designated for use as public open space. The development would require a minimum public open space provision of 1.5 ha to meet the requirements of objective DMS57 and a provision of c. 1.105 ha to exceed the 10% requirement. The development provides c. 25,370 sq. m of public open space as follows:

- Skylark Park c. 8,150 sq.m.
- Railway Linear Park Extension c. 6,990 sq.m.
- Northern and Central Townland Linear Parks c. 10,230 sq.m.

This public open space provision is therefore well in excess of development plan quantitative requirements, noting also that the previous phases of St. Marnock's Bay also include substantial areas of public open space at the Portmarnock Burial Mound, Railway Linear Park, the Townland Linear Park and at the civic plaza at Station Road. The applicant's Planning Report provides detailed analysis of the quantitative open space provision for the overall development such that it meets the detailed requirements of objective DMS57A for a hierarchy of public open space provision. The proposed layout integrates with the previous phases and therefore meets LAP Objective GI 29 to provide an integrated network of open spaces, pocket parks, linear parks and green routes and Objective GI 35 to ensure that every home within a new residential scheme is located within 100 m walking distance of a pocket park, small park, local park, urban neighbourhood park or regional park. In addition, the landscaping submitted scheme and surface water drainage strategy do not include substantial SuDS features within the public open space areas, in accordance with development plan objectives DMS73 and DMS74.

The report of FCC Parks and Green Infrastructure Department states no objection subject to conditions. Having regard to the submitted Landscape Design Rationale,

Tree and Hedgerow Survey and Associated Arborist's Report, Tree Planting Plan and Public Lighting Plan, I am satisfied that the development will allow for the retention and integration of existing trees and townland boundaries with minimal tree/hedgerow removal and will provide a high standard of public open space and amenities overall, including pedestrian/cycle connections, play areas, passive and active open spaces and biodiversity enhancement, generally in accordance with LAP Green Infrastructure objectives. I also note from the Sunlight and Daylight Analysis that all the proposed external amenity spaces achieve well in excess of the BRE.209 criterion of achieving at least two hours potential sunlight on March 21<sup>st</sup> to the majority of its area. With regard to the noise environment, given the proximity of Dublin Airport and the railway line, the Noise Impact Assessment provided in EIAR Chapter 11 concludes that external amenity areas are not expected to achieve the recommended 55dB LAeq,16hr noise level recommended in ProPG 2017. However, it is not possible to reduce the noise level across external spaces due to aircraft noise being the dominant noise source.

I consider that the proposed design and layout are in accordance with relevant development plan objectives and are within the parameters required by the Portmarnock South LAP and that they will provide for satisfactory pedestrian/vehicular/cycle connections and public open space provision in accordance with LAP requirements and national planning policy, such that the development will provide a high quality environment and public realm that represents a positive contribution to this emerging residential area adjacent to Portmarnock railway station. I also note in this regard that the planning authority does not have any significant concerns about the layout or appearance of the development and considers that the applicant has successfully integrated the development with the earlier phases, while introducing new unit types and finishes.

#### 10.3.2. Housing Mix

The development comprises 94 no. three bed houses (55%), 66 no. four bed houses (32%) and 22 no. two/three bed duplex units (13%). The proposed mix provides for a variety of household types and is in accordance with development plan Objective PM38, which seeks to achieve an appropriate dwelling mix, size, type and tenure in all new residential developments as well as objective PM40 which seeks to ensure a mix and range of housing types are provided in all residential areas to meet the

diverse needs of residents. The apartment mix also complies with SPPR 1 of the Apartment Guidelines. The planning authority considers the mix to be acceptable. I am satisfied that the proposed mix will provide a balanced contribution to the overall housing mix at the LAP lands with regard to the previous phases of St. Marnock's Bay.

#### 10.3.3. Quality of Residential Accommodation

The application includes a Housing Quality Assessment. The apartments and duplex units are designed to meet or exceed the relevant quantitative requirements of the Apartment Guidelines. All units are dual aspect, and several units are triple aspect, exceeding requirements of SPPR 4. They also comply with the requirements of SPPR 5 regarding floor to ceiling height. The individual private amenity spaces and communal open spaces of the apartments and duplex units all exceed the quantitative requirements of Appendix 1 of the Apartment Guidelines. The application includes a Building Lifecycle Report, as required by the Apartment Guidelines, which states that a property management company will be established in accordance with the Multi-Unit Developments Act 2011.

The proposed houses are designed to be consistent with the guidance provided in the Quality Housing for Sustainable Communities Best Practice Guidelines. The private open spaces for individual houses are in accordance with development plan objective DMS87, which requires a minimum private open space provision of 60 sq.m. for three bed houses and 75 sq.m. for four bed houses, as well as objective DMS28, which requires minimum separation distances of 22 m between directly opposing first floor rear windows.

I am satisfied on this basis that the proposed houses and apartments will provide a high standard of accommodation for future residents.

#### 10.3.4. Sunlight and Daylight Assessment

Section 6.6 of the Apartment Guidelines states that planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2<sup>nd</sup> edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision. Section 6.7 of the Apartment

Guidelines states that where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting, taking into account issues such as design constraints associated with the site or location and the balancing of the assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution. In addition, development plan Objective DMS30 is to ensure that all new residential units comply with the recommendations of the above documents, or other updated relevant documents. While 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 consider that this updated guidance does not have a material bearing on the outcome of the assessment and that the relevant guidance documents remain those referred to in the Apartment Guidelines.

The application includes a Sunlight and Daylight Analysis Report, which predicts sunlight and daylight availability to the proposed duplex units with regard to the above guidance. The internal daylight analysis examines internal daylight and sunlight within the proposed apartments based on Average Daylight Factor (ADF) of habitable rooms within the apartment blocks. In general, ADF is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The BRE 2009 guidance, with reference to BS8206 – Part 2, sets out minimum values of ADF that should be achieved, these are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Section 2.1.14 of the BRE Guidance notes that non-daylight internal kitchens should be avoided wherever possible, especially if the kitchen is used as a dining area too. If the layout means that a small internal galley type kitchen is inevitable, it should be directly linked to a well daylit living room. This guidance does not give any advice on the targets to be achieved within a combined living/kitchen/dining (LKD) layout. It does, however, state that where a room serves a dual purpose the higher ADF value should be applied.

The applicant's Sunlight and Daylight Analysis applies the following targets:

- > 2.0% for Living/Kitchen/Dining Areas (LKD)
- >2.0% for Kitchen/Dining Areas

- >1.5% for Living Rooms
- > 1.0% for Bedrooms

The analysis examines all duplex units across the development and determines that 89% of rooms were in excess of the prescribed BRE/BS guidelines for ADF. All the first and second floor rooms assessed were determined to comfortably exceed these minimum requirements. The LKDs in the 11 no. ground floor apartments achieved ADF values in the region of 1.3% to 1.4%, which are below the minimum 2.0% ADF required for these spaces. The floor plans of the duplex blocks indicate that the kitchens are located at the back of combined LKDs, with no direct access to daylight, resulting in ADF values < 2%. I accept that it is a significant challenge for large open plan LKD rooms to achieve 2% ADF, and even more so when higher density and balconies are included. Often in urban schemes there are challenges in meeting the 2% ADF in all instances, and to do so would unduly compromise the design/streetscape and that an alternate 1.5% ADF target is generally considered to be more appropriate. Given the nature of the apartments in terms of design and layout, i.e., accepting that these rooms primarily function as living/dining rather than kitchens, and given that the above analysis presents a 'worst case scenario' of apartment units within the overall development and that houses and the upper floor duplex units would all achieve higher light levels, I am satisfied overall that a higher percentage of units within the development exceed the BRE targets and that the overall level of residential amenity is acceptable, is considered to be in reasonable compliance with the BRE standards, in particular noting that the BRE standards allow for a flexible and reasonable alternative for ADFs, and which in any event LKDs are not specifically stipulated in the BRE guidance.

Section 6.7 of the Apartment Guidelines allows compensatory proposals where non-compliance is proposed and states that the Board may apply discretion in the interests of achieving wider planning objectives. The applicant proposes the following compensatory measures for the ground floor apartments that do not meet the 2% ADF target:

- Ground floor terrace to the rear is 19 sq.m. (7 sq.m. required).
- Communal amenity areas are well in excess of the quantitative requirements of the Apartment Guidelines. Blocks 1 and 2 require a minimum of 96 sq.m. and 429

sq.m. is proposed. Block 3 requires a minimum of 80 sq.m. and 330 sq.m. is proposed.

- All duplex apartments have direct aspect onto the Townland Boundary linear park.

I consider that, in the context of the overall development, the shortfalls are not significant in number or magnitude. Regard is also had to the need to develop sites, such as this, at an appropriate density, and, therefore, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance with same. I therefore consider that adequate justification for non-compliance exists, and that the design and associated design solutions are appropriate. I also note that the ADF for rooms is only one measure of the residential amenity and in my opinion the design team have maximised access to daylight and sunlight for all apartments and I am satisfied that all of the rooms within the apartments would receive adequate daylight.

#### 10.3.5. Public Lighting

LAP objective PL 1 is to implement the hierarchy of light intensities as set out in Figure 5.10 Light Intensity Zones for the plan lands. The application includes a Public Lighting Plan setting out compliance with the Light Intensity Zones, which is satisfactory.

#### 10.3.6. Interaction with the Railway Line

The submission of Irish Rail is noted. The development has the potential to significantly impact the safety of the operational railway. Irish Rail sets out detailed requirements in relation to the interaction of the development with the adjacent railway line, including cross sections, site levels, topography, land take, drainage, boundary treatments, landscaping, lighting, noise and vibration impacts and construction impacts at the railway bridge. The proposed layout provides a buffer to the railway line with the provision of the Railway Linear Park along the western side of the site. The potential for a pedestrian/cycle connection over the railway line is discussed below in the context of Movement and Transport Issues. Permission should be subject to condition to ensure that the integrity of the railway is maintained.

#### 10.3.7. Design and Layout Conclusion

I am satisfied that the development generally achieves a high quality of design and finish, while making optimum use of this zoned and serviced site adjoining an existing emerging residential area at the edge of Dublin City. I consider that it provides a high standard of amenity and public realm which will complement the adjacent existing residential developments at the previous phases of the St. Marnock's Bay development and that it will also contribute to place making in the wider area with new public open spaces and new pedestrian/cycle connections. I also consider that the development will provide an acceptable standard of residential accommodation for future occupants, subject to conditions, and is generally satisfactory with regard to national and development plan guidance for residential development.

#### 10.4. **Impacts on Visual and Residential Amenities**

##### 10.4.1. Impacts on Residential Amenities

While observers state serious concerns in relation to potential environmental impacts and to social and physical infrastructure, they do not raise matters relating to direct impacts on residential amenities by way of overlooking, overshadowing or visual obtrusion. The planning authority also does not raise any concerns in relation to impacts on residential amenities. The development is designed as a continuation of the previous phases of St. Marnock's Bay, such that satisfactory separation distances and orientation are achieved to adjacent existing/permitted residential units. The applicant conducted a scoping exercise to identify the neighbouring dwellings which would require a detailed study of daylight and sunlight impacts. No significant adverse impacts are expected in relation to daylight as appropriate separation distances are achieved and building heights are not excessive. As the development lies within 90° due south of existing neighbouring buildings to the north of the development site, further analysis of overshadowing and impact on sunlight availability to these dwellings is addressed through shadow analysis. Section 4.0 of the Sunlight and Daylight Analysis provides illustrative site shading diagrams on an hourly basis for the Equinox and Summer/Winter solstices. The diagrams illustrate that the development is not predicted to cause overshadowing of the existing/permitted adjacent houses within previous phases of St. Marnock's Bay. I am

satisfied on this basis that the development will not have any significant adverse impact on adjacent residential amenities by way of overshadowing or overlooking.

There is potential for adverse impacts on residential amenities during the construction period relating to dust, noise and construction traffic during the construction period. The EIAR addresses noise, dust and traffic impacts and a Construction and Environmental Management Plan (CEMP), which address potential adverse impacts on residential amenities during construction, is submitted. A detailed Construction and Environmental Waste Management Plan may also be required by condition if permission is granted. Third party comments request that the Board impose a condition restricting construction works to the hours of 07.30 or 08.00 to 19.00 hours Monday to Friday and between 08.00 and 14.00 on Saturdays, rather than the standard construction hours, which commence at 07.00. However, having considered this request, I see no particular or unique reason for revised working hours in this instance, e.g. sensitive receptors. In addition, I consider that shorter daily construction hours are likely to result in a longer construction phase overall, with consequent potential construction impacts on residential amenities, while also delaying the delivery of housing in accordance with national, regional and local planning policies and objectives. I therefore recommend the standard condition on construction hours if permission is granted.

#### 10.4.2. Landscape and Visual Impacts

The landscape around the development site is generally enclosed to the north by existing/permitted residential development; to the west by the railway corridor and to the east and south by hedgerows and a broad, visually flat topography. There is an east-west ridge through the LAP lands, between the recorded monuments, and the lands to the east and south of the ridge are more visually open and sensitive than those to the west where the proposed development is mostly located. Development plan Local Area Objective 79 requires that visual impacts of housing on the Greenbelt are to be minimised by siting, design and by planting. LAP section 7.2 states that care also needs to be taken to preserve views from higher ground.

I note the submitted LVIA (EIAR Chapter 12), which includes photomontages. The LVIA examines potential visual impacts on six no. views to the south, east and north of the site, where the development will be visible in the more open landscapes at



these locations. Based on the site inspection and on my knowledge of the area, I am satisfied that the viewpoints chosen are representative of views in the wider area.

The development will have limited visibility in the landscape and will read as a low level continuation of the existing built up environment in wider views of the site from Golf Links Road and the Portmarnock green route to the east (views nos. 1, 2, 3) and from views further to the south (view no. 6). The LVIA does not identify any significant visual impacts at these locations, and I concur with this conclusion. The development will change the outlook from Mayne Road to the south (views nos. 4 and 5) with the creation of a new road junction and the southern edge of the development will have a visual presence at this location. Houses facing the Ecological Buffer Zone have been designed to address the area with a distinctive design and material finish. No significant adverse visual impacts are identified in the LVIA, and I accept this conclusion. The scheme includes several character areas with a good variety of house and apartment types, shared spaces, retained hedgerows and landscaped areas, which will provide visual interest. While the site does have a sensitive location adjacent to designated coastal landscapes, I consider that distant views of the development will read it as a continuation of the existing/permitted built up environment on the zoned lands to the immediate north and east of the development site. The context of the adjoining undeveloped and residential areas will change as a result of the development; however, this is part of an ongoing process of development in this emerging residential area at the edge of Dublin City. Views of the development from adjacent areas will change further if or when adjoining zoned lands are developed as later phases of St. Marnock's Bay.

I do not consider that the subject proposal would have any particular adverse visual impacts beyond what would normally be expected from a modern urban development on zoned and serviced lands such as would warrant a refusal of permission on grounds relating to adverse visual impacts. In addition, the overall development will make a substantial contribution to the public realm at this location, which will represent a planning gain. I am therefore satisfied that the development will not have any significant impact on designated views or prospects or any adverse wider landscape or visual impacts.

## 10.5. Movement and Transport

### 10.5.1. Existing and Proposed Roads and Transportation Infrastructure

There are existing pedestrian and cycle facilities at Station Road to the north of the site, which connect to Portmarnock railway station and to the Portmarnock pedestrian/cycle route to the east of the site. These include a signalised pedestrian crossing adjacent to the railway station. There are two vehicular/pedestrian/cycle accesses from Station Road that serve the earlier phases of St. Marnock's Bay. Mayne Road (R123) to the south of the site is narrow (6-6.5 m wide) and semi-rural in character. There is an intermittent footpath along the northern side of the road and no footpath on the southern side. There are no cycle facilities at Mayne Road. The applicant's Traffic and Transport Assessment (TTA) lists the following upgrade works that are taking place in the vicinity, with anticipated completion prior to commencement of the proposed development:

- Hole in the Wall/Mayne Road Junction Upgrade, substantially complete.
- Coast Road/Station Road Junction Upgrade, works January to March 2022. These works were not complete at site inspection on 11<sup>th</sup> March 2022.
- Drumnigh Road/Station Road Junction Improvements, works January to March 2022. These works were not complete at site inspection on 11<sup>th</sup> March 2022.

In terms of public transport, Portmarnock railway station is served by the Dart line and by suburban rail services. The following Dublin Bus services operate at Station Road:

- 32 From Talbot St. to Malahide;
- 32x From Malahide towards UCD Belfield;
- 102 Sutton Station to Dublin Airport;
- 42d Portmarnock to DCU;

The H spine of the new BusConnects network includes Strand Road and the Coast Road nearby to the east of the site as part of the Malahide to City Centre Core Bus Corridor. The scheme will also include the L81 from Malahide to Abbey Street via Portmarnock and the X78 to UCD via the city centre.

The proposed development includes a new connection to Mayne Road, which will create a spine route between Station Road and Mayne Road that will serve all of the LAP lands. The new connection meets Mayne Road at a non-signalised priority junction. The internal roads layout of the development has been designed to meet DMURS standards as per the submitted Statement of Consistency with DMURS, with a street hierarchy, tight corner radii, shared spaces and a reduction of vehicular speed by design measures such as good legibility, a strong sense of enclosure and passive surveillance, to create a 'self-regulating' environment. FCC Roads and Transportation Department notes that there are some straight runs, where the slight bends in the road would not be sufficient to passively reduce vehicle speeds in these areas. This matter is also raised in the Road Safety Audit (RSA) and observers state concerns about the creation of a 'rat run' between Station Road and Mayne Road. A condition may be imposed requiring a redesigned layout to address the matters raised in the RSA, to the satisfaction of the planning authority, if permission is granted. I note that FCC Roads and Transportation Department welcomes the new connection to Mayne Road and does not object to the junction layout subject to the implementation of the Station Road/Drumnigh Road R124 junction upgrade and the Strand Road/Station Road/Coast Road junction upgrade. While these upgrades are not currently complete, a condition could be imposed requiring their completion prior to the commencement of the proposed development.

I am satisfied that the development will achieve a good degree of permeability and connectivity with additional cycle/pedestrian routes at the townland boundaries and open spaces and a perimeter route that will connect to the railway station, local centre and open spaces. The RSA comments that the exact usage of the permitter route is unclear and recommends that it be designed and clearly laid out as a pedestrian and cycle connection, this may be required by condition.

The CE Report comments that the surrounding roads network is significantly lacking in terms of pedestrian and cycle facilities. It notes that a permission for a residential development at Drumnigh Road on lands on the opposite side of the railway line, ref. PL06F.244401 dating to 2015, included a condition which required revised phasing to provide a proposed cycle/pedestrian link to the existing bridge over the railway line in the first phase of that development. It is submitted that the Board should impose a similar condition in this instance, notwithstanding that the bridge is outside the

applicant's ownership, such that the subject development provides a pedestrian and cycle connection at the western side of the site between the railway station and the bridge. The bridge in question is located adjoining the Railway Linear Park and a pedestrian/cycle connection as far as the site boundary, within the park, could be required by condition if permission is granted. Such a connection would also somewhat ameliorate the lack of pedestrian and cycle connections at Mayne Road to the south of the site.

Observer submissions also comment that there is limited pedestrian and cycle connectivity to the Portmarnock pedestrian/cycle route to the east of the site. While I accept that there are very limited pedestrian facilities and no cycle facilities at Mayne Road, I note the following points:

- I accept overall that the development provides good pedestrian and cycle connections to the residential areas and the railway station to the north of the site.
- Additional connections to the east will become available as future phases of the eastern side of the LAP lands are built out. The comment of FCC Roads and Transportation Department notes that the Active Travel Section of FCC is undertaking an assessment of the surrounding area to locate opportunities to provide for safer connections from the subject lands to Portmarnock village and to the wider pedestrian and cycle network.
- Pedestrian and cycle facilities have been constructed at Station Road to connect to the Portmarnock pedestrian/cycle route and are now complete. It is likely that the majority of pedestrian/cycle movements will be to the north towards Station Road, the local centre at Station Road, the railway station and the centre of Portmarnock.

The proposed roads, pedestrian and cycle layout and accesses are considered acceptable subject to conditions on this basis.

#### 10.5.2. Traffic Impacts

The applicant's TTA, dated November 2021, is based on historic traffic counts carried out on Tuesday 26<sup>th</sup> February 2019, in support of the application for Phase 1C, at the following locations:

- Junction 1 Station Road/Drumnigh Road R124 (to the north/west);
- Junction 2 Strand Road/Coast Road/Station Road (to the north/east);
- Junction 3 Mayne Road/Coast Road (to the south/east);
- Junction 4 Drumnigh Road/Mayne Road (to the south/west);
- Junction 5 Balgriffin Park/Balgriffin Cottages/Mayne Road (to the south/west).

I am satisfied that the above junctions are the most pertinent to consideration of potential traffic impacts associated with the development. Observers note that the two junctions at Station Road serving the overall St. Marnock's Bay development are not analysed. I note section 10.6 of the Inspector's report on ABP-300514-17 and section 10.4 of the report on ABP-305619-19, which give detailed consideration to traffic and transportation impacts, including the proposed new junctions at Station Road and related issues. I consider that it is reasonable to assume that the accesses to Station Road have been designed with capacity to serve the overall LAP lands as they were permitted under the previous phases of St. Marnock's Bay.

The historic traffic survey is used due to lack of consistent current data during Covid19 restrictions, and the modelling is based on a 'factoring up' of the 2019 figures to ensure consistency across all junctions, in accordance with medium growth rate factors identified in the TII Project Appraisal Guidelines for National Roads Unit 5.3, Travel Demand Projections- Oct 2021. While I note observer objections to the use of historic data, I accept that the historic data is more likely to be reflective of the post-Covid situation than the patterns during the lockdown period, which was the only information available to the applicant while the current application was being prepared. While I accept that additional residential development has come on stream in the area since the 2019 survey, as submitted by observers, the projected figures are based on the following guidance:

- TII Traffic and Transport Assessment Guidelines – May 2014
- TII Project Appraisal Guidelines for National Roads

which is an acceptable methodology for predicting future traffic flows. Observer comments also note that the TTA does not take account of any traffic surveys during the weekend, when there is likely to be significant local traffic associated with amenities such as the Portmarnock pedestrian/cycle route and the local centre facilities at Station Road, particularly during the summer months. While such

concerns are reasonable, I consider it unlikely that weekend movements, which would be staggered throughout the day rather than concentrated at AM and PM peaks, would exceed traffic volumes during weekday peak hours such that the capacity of the local road network would be compromised.

The projected traffic volumes are based on a cumulative assessment, which takes the previous phases of St. Marnock's Bay into consideration, as set out in EIAR section 13.3 and TTA section 8 (noting concerns stated by observers in relation to cumulative traffic impacts). The capacity assessment and traffic analysis for each junction may be summarised as follows, with future traffic flows in the design year of 2038 to be amended by various junction upgrades and taking into consideration the proposed new connection to Mayne Road as part of the subject development, which will likely reduce traffic impacts at other junctions:

Junction	Base Year 2021	Upgrade Works	Opening Year 2023	Design Year 2038
1. Station Road/ Drumnigh Road R124	Operating over capacity in the PM peak	Due to commence early 2022	Above capacity in the AM and PM peaks, both with and without the development	Above capacity in the AM and PM peaks, both with and without the development
2. Strand Road/ Coast Road/ Station Road	Nearing capacity with minor delays	Due to commence early 2022	Within capacity with and without the development	Above capacity in the AM and PM peaks, both with and without the development
3. Mayne Road/ Coast Road	Within the normal design threshold		Within capacity with and without the development	Above capacity in the AM and PM peaks, both with and without the development
4. Drumnigh Road/ Mayne Road	Above normal design threshold during AM peak, otherwise within capacity.	Upgrade now substantially complete, these junctions are now replaced by	Within capacity with and without the development	Within capacity with and without the development

5. Balgriffin Park/ Balgriffin Cottages / Mayne Road	Just above capacity for the PM peak	Junction H: Hole in the Wall Road.		
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The TTA notes that the junction upgrades and the new Mayne Road access will change traffic flows in the area, and, in some instances, projected impacts are less with the proposed development than without, due to the impact of the new Mayne Road access. It is also noted that the TTA does not take projected further sustainable transport improvements in the Fingal area such as improved DART services, Bus Connects, cycle schemes and additional government initiatives, which will all have a positive effect on the modal split, reducing the impact of surrounding junctions. While I note third party comments that condition no. 2 of ABP-305619-19, which required the completion of the junction upgrades at the Station Road/ Drumnigh Road R124 and Strand Road/Coast Road/Station Road junctions prior to the construction of that development, and that these upgrades were not yet underway or completed at site inspection on 11<sup>th</sup> March 2022, I accept the applicant's undertaking that these works will commence shortly, given that various road works have already been carried out to date in the context of the previous phases of St. Marnock's Bay, as summarised in section 10.2 above. In addition, a similar condition can be imposed in this instance, requiring the completion of the Station Road/ Drumnigh Road R124 and the Strand Road/Coast Road/Station Road junction upgrades prior to the commencement of the proposed development. The enforcement of conditions of permission is a matter for the planning authority.

While I note that third parties state general concerns in relation to traffic congestion, I consider with regard to the above traffic analysis that the development will not result in adverse traffic impacts such as would warrant a refusal of permission. The applicant's preliminary Mobility Management Plan, as outlined in the TTA and EIAR, and the highly accessible location of the development, are also noted in this regard.

### 10.5.3. Construction Traffic

EIAR chapter 13 addresses construction traffic impacts. A 24 month construction phase is anticipated. All construction traffic currently accesses and leaves the St. Marnock's Bay development via the eastern second entrance to Station Road.

Construction traffic is forbidden from travelling through the Station Road/Drumnigh Road junction to the west of the site and must use the Coast Road/Station Road/Strand Road junction to the east, which is better able to accommodate larger construction vehicles. Construction traffic not exceeding 3.85m can use Mayne Road and pass under the DART bridge, travelling towards the M1 on the most direct route via the R139. Construction traffic exceeding 3.85m will travel to the M1/M50 via Baldoyle village, Dublin Road, Kilbarrack Road, Tonlegee Road and Coolock Lane. Permission was granted in May 2021 under reg. ref. F20A/0700 for the construction of a new temporary haul road connection to Mayne Road, to serve Phase 1C, currently under construction, and any future phases, until such time as the permanent Mayne Road connection currently proposed, is delivered. Further details of construction traffic management are provided in the submitted Construction and Environmental Management Plan (CEMP).

The EIAR notes that construction traffic tends to be outside of peak hours and will not be higher than the peak hour predicted volumes for the operational phase. All construction activities will be governed by a Construction Traffic Management Plan, which will be agreed with the planning authority prior to the commencement of construction. No significant construction traffic impacts are predicted. Observers comment that the EIAR analysis of construction traffic is flawed as it seeks to rely on a traffic management plan that will be agreed with the planning authority at a later date in order to manage construction phase impacts. They also comment that the applicant has not fully complied with conditions of ABP-305619-19 in relation to construction traffic. I am satisfied that the EIAR includes adequate consideration of potential traffic impacts associated with construction and that the only outstanding issues relate to the implementation of the proposed mitigation measures, i.e., construction traffic management, rather than any assessment of construction traffic impacts. Having carryout a full traffic impact assessment, I am satisfied that the likely construction traffic impacts are within an acceptable range and that the proposed construction mitigation measures as set out in EIAR and CEMP will be adequate to prevent significant traffic impacts during the construction period. It is standard practice that detailed construction traffic management would be addressed with the planning authority on an ongoing basis during construction as issues arise, which cannot be predicted at application stage.



#### 10.5.4. Car and Cycle Parking

The proposed car parking provision may be considered with regard to development plan car parking standards as follows (after the TTA):

Unit Type	No. of Units	Fingal Development Plan Standard	
3 /4 bed house	150	2 spaces per unit	300 spaces
3 bed duplex	11	2 spaces per unit	22 spaces
2 bed duplex	11	1.5 spaces per unit	16.5 spaces
Duplex visitor parking	22	1 space per 5 units	4.5 spaces
<b>Total</b>			<b>343 spaces</b>

The development provides 345 no. car parking spaces, comprising 300 no. spaces for the houses and 43 no. duplex/visitor spaces. The duplex/visitor parking is provided in communal areas adjacent to the apartment blocks. The development therefore meets development plan parking standards. As discussed above, I consider that the development site is an 'Intermediate Urban Location' as per section 4.21 of the Apartment Guidelines. The Apartment Guidelines recommend that planning authorities consider a reduced overall car parking standard at such locations. I consider that the proposed quantum of car parking provision is generally acceptable with regard to this guidance. However, I also note that the development does not provide any visitor parking adjacent to the houses, with only in curtilage spaces provided. The report of FCC Roads and Transportation Planning comments that there is a significant prevalence of on-street parking in the adjoining residential areas, especially close to the railway station, which leads to vehicles partially blocking the road and footpath with consequent hazards for pedestrians, cyclists and emergency vehicles. The issue of uncontrolled parking also arises in the RSA, with the recommendation that a limited amount of visitor parking should be provided, evenly scattered throughout the development. The RSA also recommends detailed design and layout requirements for car parking areas to deter uncontrolled parking, which may be required by condition. The current parking proposals are similar in nature to those already permitted under the previous phases of St. Marnock's Bay and are appropriate in my view. I do not consider any increase in the car parking

ratio to be justified, given the location of the development site relative to Portmarnock railway station.

Section 4.17 of the Apartment Guidelines states a general minimum standard of 1 cycle storage space per bedroom with a visitor parking provision of 1 space per 2 residential units. This implies a total requirement of 99 no. spaces to serve the apartments and duplex units. Development plan cycle parking standards, as set out in the report of FCC Transportation Planning Department, require a provision of 66 no. spaces. The development provides a total of 30 no. cycle spaces. The proposed cycle parking provision is considered acceptable in terms of design and location relative to apartment blocks. While the quantum is less than the Apartment Guidelines standard, it is considered acceptable with regard to the location of the site close to frequent public transport.

The proposed car and cycle parking provision is considered acceptable subject to conditions on this basis.

## 10.6. **Water and Wastewater Infrastructure**

### 10.6.1. Water Connection and Irish Water Wayleaves

The applicant's Water Services Report sets out the existing and proposed water and wastewater infrastructure. There are two Irish Water (IW) wayleaves that traverse the site, comprising a 20m wayleave for the proposed outfall pipe for the Greater Dublin Drainage (GDD) project and a 5m wayleave for the proposed 450mm rising main from the proposed new IW Portmarnock Bridge pumping station. The development layout has been designed to accommodate these wayleaves, in consultation with IW. The current IW submission, dated 17<sup>th</sup> January 2022, comments that if the development is constructed ahead of the GDD project, the Mayne Road access would need to be temporarily closed to facilitate GDD works, however in that case the proposed development and future phases would have access to the other existing entrances from Station Road. There are no other concerns regarding the interaction of the development with the future construction of the GDD, subject to the requirements outlined in the IW Confirmation of Feasibility, which may be required by condition.

The residential development will connect to an existing watermain at Phase 1D, with a separate connection from the existing Phase 1B to serve the proposed upgraded

temporary pumping station. I note the IW Confirmation of Feasibility, dated 4<sup>th</sup> October 2021, which states that the water connection is feasible without upgrades, the IW Statement of Design Acceptance dated 23<sup>rd</sup> November 2021, and that the current IW submission states no concerns or objections in relation to the proposed connection. The water connection is acceptable on this basis.

#### 10.6.2. Wastewater Infrastructure

The development is within the North Fringe Sewer catchment, which discharges to the Ringsend WWTP. The greater Portmarnock foul network discharges to an existing pumping station located adjacent to Portmarnock Bridge, to the northeast of the development site, and from there the effluent is pumped via a rising main along the Coast Road to a high point and then flows by gravity to the Mayne Bridge pumping station at Mayne Road, which in turn pumps to the North Fringe Sewer c. 1km to the south. LAP section 9.2 notes the limited capacity of the Portmarnock Bridge pumping station and states that the provision of a new main sewer from the LAP lands to the North Fringe Sewer and a new foul water pumping station are required to facilitate the development of the LAP lands. LAP Objective WW1 applies:

*Ensure that all required drainage infrastructure including the installation and commissioning of the pump station and network are completed and operational following completion of the first 100 dwellings and prior to the commencement of further development.*

The Mayne Bridge pumping station was upgraded with the installation of two new pumps and improved electrical and control systems as part of a condition of the permission for St. Marnock's Bay Phase 1A in 2013, ref. F13A/0248. Phase 1B of St. Marnock's Bay, ref. ABP-300514-17, included a temporary pumping station at Station Road with a 24-hour storage tank to hold back discharges during rainfall events, pending the construction of the new IW pumping station at Portmarnock Bridge. The temporary station discharges to the gravity sewer in Coast Road, which in turn outfalls directly (bypassing the Portmarnock Bridge pumping station) into the Mayne Bridge pumping station.

When Irish Water assumed responsibility for foul and water infrastructure in 2014, they proposed to develop a new Portmarnock Bridge pumping station on lands adjacent to the existing pumping station as part of their Local Network

Reinforcement Project strategy. IW applied for a new wastewater pumping station and associated network infrastructure to include gravity sewer and rising main connections on lands to the immediate south-west of the existing Portmarnock Bridge pumping station under reg. ref. F19/0400, which was permitted by FCC but refused by ABP on foot of a third party appeal, ref. ABP-307641-20. The Board refused permission on grounds relating to the location of the site in an area prone to flooding. IW sought permission on 9<sup>th</sup> November 2020 for a new wastewater pumping station and associated network infrastructure under reg. ref. F20A/0568. The proposal involved decommissioning the existing Portmarnock Bridge pumping station and the transfer of foul flows to the proposed pumping station. The application was withdrawn on 7<sup>th</sup> January 2021. Under F21A/0389, IW sought permission on 19<sup>th</sup> July 2021 for a wastewater pumping station comprising modification of Portmarnock Bridge pumping station and gravity sewer connection beneath the Sluice River linking the proposed pumping station and the modified Portmarnock Bridge 'pumping' station, also completion of rising main connection to North Fringe Sewer; decommissioning of foul rising main within Strand Road and Coast Road and other site works. Further information was sought by FCC on 10<sup>th</sup> September 2021, which remains pending. The provision of a new permanent pumping station to serve the LAP lands therefore remains unresolved at present.

The applicant's Water Services Report states that the development would connect to the existing foul sewer network via the wastewater infrastructure of the permitted adjoining Phase 1C, which currently discharges to the existing temporary pumping station at Station Road, as constructed under Phase 1B. It is proposed to upgrade the existing temporary pumping station, which would continue to be operated and maintained by the developer under a maintenance agreement until it is decommissioned and removed when the new IW Portmarnock Bridge pumping station becomes operational. The proposed upgrade is within the red line site boundary and includes additional operational storage (6-12 hours) and telemetry and programmable logic control (PLC) upgrades to allow communication between the existing Portmarnock Bridge pumping station, the Mayne Bridge pumping station and the St. Marnock's temporary pumping station. It is submitted that the upgrade will, as needs arise, provide IW with a managed system and allow for the St. Marnock's temporary pumping station to be turned off or to discharge at a reduced rate for a

period of up to six hours, to facilitate instances where either increased discharges are required from the existing Portmarnock Bridge pumping station or where it is necessary to limit inflows to Mayne Bridge pumping station to allow pump and storage capacity to meet demand. The temporary pumping station would be re-engaged when circumstances allow, utilising off-peak periods to clear mobilized storage volumes. The Board is also referred to the applicant's Flood Risk Assessment, which addresses flooding issues relating to the temporary pumping station, as well as to the detailed surface water management strategy and water supply proposals.

The applicant recognises that this proposal deviates from LAP Objective WW1 and the matter is addressed in the Material Contravention Statement. The applicant submits that the wastewater arrangements are proposed on foot of extensive dialogue between the applicant and Irish Water. IW issued a new Confirmation of Feasibility for the development on 4<sup>th</sup> October 2021, which confirms that connection to the foul network is feasible subject to upgrade works being carried out to the temporary pumping station. The current IW submission, dated 17<sup>th</sup> January 2022, states that IW is satisfied that the proposed upgrade reflects discussions with the applicant.

Third party submissions comment that permission should not be granted until there is a permanent wastewater management arrangement for the area, as there is significant uncertainty around the environmental impacts that are likely to arise, as both the EIAR and the NIS do not consider potential impacts associated with the permanent pumping station. Therefore, it is submitted that the NIS and EIAR fail to properly assess the likely impacts on the environment and on European Sites. As discussed below, the outcome of the current IW application to upgrade the Portmarnock Bridge pumping station cannot be anticipated at present and it is therefore necessary to assume that the proposed temporary arrangement will be in place indefinitely. I am satisfied that both the EIAR and NIS address issues associated with the temporary pumping station as well as all of the proposed upgrade works, which are included in the subject application, and that potential environmental impacts associated with wastewater drainage are therefore fully assessed, notwithstanding the uncertainty around any future works at the Portmarnock Bridge pumping station.

Third party submissions also comment that the Portmarnock Bridge and Mayne Bridge pumping stations are overloaded and regularly overflow to the Mayne and Sluice rivers, which are pathway receptors to Baldoyle Bay SAC, also the main CSO for the North Fringe sewer also regularly overflows on the Coast Road at Baldoyle., The applicant submits that there will be no increase in the potential risk of foul overflows due to the development, since it is downstream of the existing Portmarnock Bridge pumping station, and the provision of additional storage as well as telemetry will facilitate Irish Water's control and management of all three pumping stations during peak events. This point is accepted given that the confirmation of feasibility from IW indicates that downstream infrastructure beyond the local pumping network also has the capacity to cater for this development, subject to the proposed upgrade to the temporary St. Marnock's Bay pumping station.

The proposed wastewater arrangements are considered acceptable on this basis.

## 10.7. **Surface Water Drainage and Flood Risk**

### 10.7.1. Surface Water Drainage

The surface water drainage system for the entire LAP lands is divided into three catchments as follows:

- Catchment no. 1, where most of the proposed development is located, outfalls to a regional constructed wetland, which was constructed as part of Phase 1B. The regional wetland was designed to cater for the existing Phases 1A and 1B, Phase 1C currently under construction, the current proposed Phase 1D and all future phases of the entire development except for Catchments Nos. 2 and 3. The wetland has a minimum permanent water level depth of 300mm and provides both attenuation and pollutant removal through biological treatment and settlement. A settlement forebay has been provided to decrease velocity and sediment loading. The wetland discharges to Baldoyle Estuary via two no. 375mm dia. pipes with tide flex non return valves. The flow control restricts the outflows for the 1 year, 30 year and 100-year critical storm events. The 100-year (Q100) outflow has been estimated at 200 l/s in accordance with the Greater Dublin Strategic Drainage Study. The Water Services Report provides detailed outflow modelling and analysis for the proposed Catchment no. 1 surface water drainage system.

- Catchment no. 2, which drains the northern section of Phase 1B and the St. Marnock's Bay temporary pumping station (including the proposed upgrade works), discharges attenuated flows via an existing constructed detention pond to the existing surface water drainage network on Station Road with eventual outfall to Sluice River/Baldoyle-Mayne Estuary.
- Catchment no. 3 primarily serves flows arising from the proposed new connection to Mayne Road with a 3m verge/reservation each side, will be attenuated and drain via two no. proposed wetlands/SuDS devices with outfall flows limited to 2l/s each, prior to discharge through petrol interceptors to the existing ditches at two locations; 175m north of Mayne Road and an existing drainage ditch alongside Mayne Road and as noted earlier these ditches eventually connect to the Mayne River.

The proposed surface water drainage system also includes SuDS features including permeable paving, filter drains and water butts as source control measures within individual house curtilages; bio-retention areas within public open spaces; swales running parallel to road carriageways/footpaths and filtration trenches running parallel to road carriageways /footpaths/hard landscaping areas. The applicant highlights that soakaways and other infiltration measures were not considered due to the presence of impenetrable boulder clay at the site. I note third party concerns in relation to the operation of the existing detention pond and regional wetland, as permitted under the previous phases of St. Marnock's Bay. However, these surface water management measures were provided for under the Portmarnock South LAP, which was subject to AA, and were developed in liaison with FCC. I note that FCC Water Services Department states no concern in relation to the ongoing operation of the permitted surface water infrastructure and did not note any malfunction at same at site inspection. In addition, the Water Services Department states no objection to the proposed surface water design and SUDS measures, subject to conditions. The proposed surface water management arrangements are considered acceptable on this basis.

I note third party comments relating to potential environmental impacts associated with the surface water drainage features for the Mayne Road connection, which are located in the Ecological Buffer Zone, these are addressed below in the context of EIA and AA.

### 10.7.2. Flood Risk

The application includes a Site Specific Flood Risk Assessment (SSFRA). The main hydrological features of the area are the Sluice River, the Mayne River and Baldoyle Estuary. The Sluice River flows in a south easterly direction to the northeast of the site and meets the Baldoyle Estuary to the east of the site. The Mayne River flows in an easterly direction to the south of the site. The primary flood risk to the site is from the fluvial flood from the Sluice River and tidal/coastal flood from Baldoyle Estuary. Groundwater and pluvial flood risk are not considered significant. The National Flood Hazard Mapping Website does not show any records of historic floods occurring at the development site; however, it does show records of recurring floods at the junction of Station Road and Strand Road to the northeast, with several recorded flood incidents dating to 2002. These are attributed to a combination of high tides and high river flow. The road was raised by 380mm in 2004 and hence this should rectify the problem of recurrence flooding.

The proposed residential development site and pumping station are located outside of both the 0.1% AEP and 0.5% AEP coastal flood extents indicated in the Irish Coastal Protection Strategy Study (ICPSS) Phase III mapping. Consequently, the residential site and pumping station are considered to be located in Flood Zone C, where the probability of tidal flooding is lowest. With regard to Fingal East Meath Flood Risk Assessment and Management Study (FEMFRAMS) mapping, the residential development and pumping station are outside of both the 0.1% Fluvial AEP event and the 0.1% Coastal AEP event and are therefore located within Flood Zone C, where flooding is not considered to be significant. A Justification Test is therefore not required in accordance with the Flood Risk Management Guidelines.

Section 4.5 of the SSFRA considers a future scenario based on OPW allowances for Mean Sea Level Rise. The SSFRA notes the Strategic Flood Risk Assessment of the Portmarnock South LAP and demonstrates that the development has been designed to address its recommendations regarding finished floor levels (FFLs), outfall mitigation and the provision of overland flow routes, including the regional wetland. No residual flood risks are identified.

There is no loss of or depletion to existing floodplain cross sectional area, or storage as a result of this development and any surface water generated as result of



increase in hardstanding is being managed using SuDS principles (mitigation by design), therefore the impact is assessed as negligible.

I note that the planning authority states no concerns in relation to flood risk at the site or in relation to the proposed surface water drainage system, subject to requirements which may be addressed by condition. I am satisfied from the SSFRA that the development is not located in an area at risk of flooding and will not result in any increased risk of downstream flood impacts.

## 10.8. Social Infrastructure

10.8.1. Observer submissions state serious concerns about the lack of school places and childcare provision in the area and identify various deficiencies in the submitted Social Infrastructure Audit. The matters of childcare provision and school capacity may be considered separately as follows. Schools and childcare facilities are not permissible on the LAP lands due to their location within the Outer Public Safety Zone of Dublin Airport, as provided for under section 4.2 of the Portmarnock South LAP.

### 10.8.2. Childcare

While the Childcare Facilities Guidelines for Planning Authorities generally recommend a minimum provision of 20 no. childcare places per 75 no. dwellings, LAP section 8.2 provides that schools and childcare facilities cannot be included within the LAP lands as they are located within the Outer Public Safety Zone of Dublin Airport. The lack of a childcare facility within the proposed development is therefore justified in this instance.

The Social Infrastructure Audit includes a Childcare Demand Assessment. There are five no. existing childcare facilities with c. 342 no. childcare places and one no. permitted facility with c. 34 no. childcare places within c. 1.5km of the development site. There are a further three no. permitted childcare facilities with c. 293 no. childcare places within a 1.5 – 3km radius of the site. The 0 – 4 age cohort's percentage share of the total population within the catchment area has increased over the last two intercensal periods. Within the Portmarnock South ED this increase was marginal (0.5%). Based on the above, the Assessment considers that there is more than adequate capacity within existing and permitted childcare facilities in proximity to the site to cater for childcare demand generated by the development. It

is also anticipated that further childcare facilities may be permitted by the time the proposed development would be completed in c. mid 2024, which would increase childcare provision in the area.

Observers comment that the Childcare Demand Assessment does not include any cumulative assessment of the demand generated by previous phases of St. Marnock's Bay, also that the assessment is based on data from the 2016 census, which has been superseded by the additional population from the previous phases. It is submitted that, although the LAP precludes the provision of childcare facilities at this site, it should still be necessary for the applicant to demonstrate that childcare facilities are available to serve the development. I note that the Assessment is based on a projected continuation of the 'moderately high growth' experienced in the Portmarnock South ED between the 2011 and 2016 censuses (a 15.7% population increase overall). I therefore consider that the applicant has adequately addressed childcare provision for the increased population associated with the proposed development.

#### 10.8.3. School Capacity

LAP section 8.2 lists existing primary and secondary schools in the area "which are conveniently accessible or within reasonable commuting distance" for residents of the LAP lands, such that there are 10 no. primary schools and 7 no. secondary schools. The LAP also states that there are additional schools within the developing North Fringe area of Dublin City to the south of the development site, including two primary schools, which will be accessible to the LAP lands via a network of pedestrian and cycle routes.

The applicant's Educational Needs Assessment estimates projected school demand arising from the development, based on estimated household size and population projections from the RSES, as well as a review of Department of Education and Skills (DES) data on class sizes, school building programme 2019-2022 and projected enrolment for primary and secondary level 1989-2051 (based on growth projection scenarios created by the CSO), as well as census data. The Assessment notes that there are 10 no. primary schools and 8 no. post-primary schools in the local area (as defined by the LAP). An existing capacity of 3,981 no. primary school places and 5,064 no. post-primary school places is identified. The assessment notes

that, in general, enrolment figures for both primary and post primary schools are set to decline, which suggests a corresponding increase in existing capacity within schools over time within the catchment area. In addition to the above, it is submitted that the DES has engaged with local schools to improve/expand existing facilities and details of same are provided in section 5.2.3 of the Educational Needs Assessment. An additional two no. schools (one primary and one secondary) are to be delivered in the LAP catchment area within the next six years.

Observers state concerns in relation to various aspects of the applicant's Educational Needs Assessment, commenting that the applicant's list of schools does not correspond with the catchment areas defined by the DES. I consider that the approach adopted by the applicant, and as set out in the LAP, is reasonable as it is based on the accessibility of schools in the area to the development site, noting also that the site is adjacent to Portmarnock railway station and to public transport facilities at Station Road, and therefore is accessible to an even wider catchment of educational facilities. While I accept that there may be capacity constraints in local schools, this is not an issue that would warrant a refusal of permission, and it is a matter for the Department of Education and Skills to address future demand for school places.

## 10.9. Noise

- 10.9.1. There are potential inward noise impacts on residential development at the site due to aircraft noise associated with proximity to Dublin Airport and to noise associated with the adjoining railway line. The development site is located within Noise Zone B as identified in development plan Variation No. 1, where there is a stated objective to manage noise sensitive development in areas where aircraft noise may give rise to annoyance and sleep disturbance, and to ensure noise insulation is incorporated within the development.
- 10.9.2. EIAR Chapter 11 includes a Noise Risk Assessment, which is based on noise surveys carried out at several locations in the vicinity of the development. The assessment of future noise levels takes into account noise maps produced by FCC and the DAA as part of the noise mapping requirements under the European Noise Directive (END) and EPA strategic noise mapping data for Dublin Airport, as well as the noise zone contour produced by FCC for the future operation of Dublin Airport

including the North Runway. The Noise Risk Assessment also notes the following worst case noise levels incident to dwellings and external amenity areas provided for Noise Zone B in development plan Variation no. 1:

- Daytime: 63 dB  $L_{Aeq,16hr}$ .
- Night-time: 55 dB  $L_{night}$

Based on the above, the Noise Risk Assessment concludes that the development site may be characterised as 'low to medium risk' with regard to the guidance provided in the ProPG document. The EIAR includes an Acoustic Design Statement, which provides proposed acoustic design details including construction masonry, glazing and acoustic ventilation, which will be used to achieve an internal acoustic environment that meets internal target noise levels as per ProPG and the British Standard BS EN 12354-3: 2000: Building acoustics – Estimation of acoustic performance of buildings from the performance of elements – Part 3: Airborne sound insulation against outdoor sound. External noise levels across the site during the daytime, with the North Runway in operation, are expected fall in the region of 63 dB  $L_{Aeq,16hr}$ . It is noted that whilst external amenity areas located in Zone B would be above the desirable level of 55 dB  $L_{Aeq,16hr}$  it is not possible to reduce the noise level across external spaces due to aircraft noise being the dominant noise source.

10.9.3. This assessment is considered acceptable subject to a condition requiring that all recommended noise attenuation measures be implemented in full. I note in this regard that the report of FCC Environmental Health Air & Noise Unit, dated 10<sup>th</sup> January 2022, states no objection subject to conditions.

#### 10.10. Part V

10.10.1. The applicant proposes to transfer 17 no. on-site units to meet Part V obligations, comprising:

Unit Type	Location	No. of Units
Three bed house	Central character area at western end of site	3
2 bed apt	Central character area at western end of site	4
3 bed duplex	Central character area at western end of site	4
Three bed house	Maynetown character area at eastern side of site	6
<b>Total</b>		<b>17</b>

Section 3.2.10 of the CE Report states concern that the apartments and duplex units offered are concentrated on one part of the development. I consider that this issue could be addressed by the applicant to the satisfaction of the planning authority if permission is granted for the development. I recommend that a condition requiring a Part V agreement is imposed in the event of permission being granted.

#### 10.11. **Material Contravention**

10.11.1. The applicant's Material Contravention Statement refers to three separate grounds of material contravention, namely (i) residential density; (ii) drainage infrastructure and (iii) development phasing. While I have addressed these matters separately in the relevant sections above, I shall also address the issue of material contravention here in the interests of clarity and with regard to the relevant legal provisions. The extent to which the development materially contravenes the development plan in relation to each of these matters may be considered separately as follows. Having regard to the above planning assessment, I am satisfied that there is no potential material contravention in relation to any other matters and I note in this regard that neither the planning authority nor any third party submissions raise any other potential material contravention issues.

#### 10.11.2. Residential Density

Having regard to the above detailed assessment of the proposed residential density with regard to the development plan and LAP requirements for limited residential density in the Outer Airport Noise Zone for Dublin Airport, I do not consider that the development materially contravenes the development plan in relation to residential density. However, the issue has been raised in the applicant's Material

Contravention Statement and the Board therefore can invoke the provisions of section 37(2)(b) in relation to the matter.

10.11.3. Drainage Infrastructure

The development will materially contravene LAP Objective WW1, which requires that all drainage infrastructure, including the installation and commissioning of the upgraded Portmarnock Bridge pumping station, are completed and operational following the completion of the first 100 dwellings on the LAP lands and prior to the commencement of further development. As the issue has been raised in the applicant's Material Contravention Statement, the Board can invoke the provisions of section 37(2)(b) in relation to the matter. I note that the Board has previously granted development > 100 units on LAP lands pending the upgrade of the Portmarnock Bridge pumping station, ref. ABP-300514-17 and ABP-305619-19. I therefore consider that permission for the proposed development should be granted notwithstanding the material contravention of Objective WW1, having regard to the pattern of development, and permissions granted, in the area since the making of the development plan, ref. Section 37(2)(b)(iv). ALSO 372BI 1

10.11.4. Development Phasing

LAP Figure 11.0 indicates 'Growth Areas' nos. 1 and 2, each subdivided into two phases, which are to be sequentially developed as Phases 1, 2,3 and 4. The majority of the proposed development is located within Phase 2, the second part of Growth Area 1, and therefore is within the next area of lands to be developed in accordance with LAP phasing. However, 43 no. houses are located within the southern part of Growth Area 2, in an area identified as 'Phase 4' on the LAP phasing map. Having regard to the above assessment, to the applicant's rationale for the proposed phasing, to the limited quantum of development involved (43 no. houses) and to LAP section 11.3, which allows for a degree of flexibility in the implementation of LAP phasing and given that the development is directly connected to the lands within Phase 2 of Growth Area 1, I do not consider that the proposed development materially contravenes the LAP phasing. However, the issue has been raised in the applicant's Material Contravention Statement and the Board therefore can invoke the provisions of section 37(2)(b) in relation to the matter.

#### 10.11.5. Legal Provisions

I consider that the development materially contravenes development plan policy in relation to the matter of drainage infrastructure. I consider that, having regard to the provisions of section 37(2) 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 considerations.

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

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016

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

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 Portmarnock South Local Area Plan, specifically ABP-300514-17 and ABP-305617-19, which permitted developments > 100 units pending the upgrade of the Portmarnock Bridge pumping station.

#### 10.12. **Planning Assessment Conclusion**

10.12.1. Having regard to the above assessment, I conclude that permission should be granted for the proposed development subject to the conditions set out below.

### 11.0 **Environmental Impact Assessment**

#### 11.1. **Statutory Provisions**

11.1.1. The application was accompanied by an Environmental Impact Assessment Report (EIAR), which is mandatory for the development in accordance with the provisions of Part X of the Planning and Development Act 2000 (as amended) and Schedule 5 of the Planning and Development Regulations 2001-2015.

11.1.2. Item 10 (b) of Part 2 of Schedule 5 provides that an EIA is required for infrastructure projects comprising of either:

- Construction of more than 500 dwelling units ...
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

The development would provide 172 no. dwellings on a site of c. 11.05 ha on zoned lands at the edge of a built up area. The proposal is therefore below the threshold of 500 dwellings but exceeds the threshold of 10 ha and therefore an EIA is mandatory. In addition, the proposed development when combined with the previous phases of the St. Marnock's Bay development and the future development of the LAP lands will result in a cumulative total of c. 832 no. units, which exceeds the 500 unit threshold.

11.1.3. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the submissions made by the planning authority, OBSERVERS and prescribed bodies has been set out previously in this report. A summary of the main contents of the EIAR are listed below, with a detailed assessment of the environmental aspects after.

- Volume 1 of the EIAR comprises the Written Statement
- Volume 2 includes the Appendices
- Chapter 2 provides a Non-Technical Summary
- Chapter 18 provides a summary of Mitigation Measures
- Chapter 19 summarises Cumulative Impacts and Interactions
- The individual chapters describe the expertise of those involved in the preparation of the report.

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

- Population and Human Health;



- Biodiversity;
- Land, Soil and Geology and Hydrology
- Water
- Climate (Air Quality and Climate Change)
- Climate (Sunlight and Daylight)
- Air (Noise and Vibration)
- Landscape and Visual Impact Assessment
- Material Assets (Transportation)
- Material Assets (Waste)
- Material Assets (Utilities)
- Cultural Heritage (Archaeological and Architectural)
- Risk Management (Major Accidents and Disasters)

I am satisfied that the information contained in the EIAR has been prepared by competent experts and generally complies with article 94 of the Planning and Development Regulations 2000, as amended, and the provisions of Article 5 of the EIA Directive 2014.

11.1.5. This section on Environmental Impact Assessment should be read in conjunction with the above planning assessment, noting that this section refers to certain parts of the EIAR, which are summarised elsewhere in this report, in the interests of brevity and the avoidance of repetition.

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

11.2.1. 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. EIAR Chapter 17 addresses Risk Management (Major Accidents and Disasters). 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. Chapter 8 of the EIAR addresses the issue of flooding and the site is not in an area at risk of flooding. I am satisfied that the proposed use, i.e., residential, is unlikely to be a risk of itself. The EIAR Risk Evaluation for the operational phase identifies risks associated with (i) collision of aircraft and (ii) incident at the adjacent Portmarnock railway station. These risks are assessed as extremely unlikely/very unlikely, in that they may only occur in exceptional circumstances, overall, this is assessed as a 'low risk scenario'. 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.

### 11.3. **Alternatives**

11.3.1. Article 5(1)(d) of the 2014 EIA Directive requires 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. EIAR Chapter 4 deals with alternatives and sets out a rationale for the development. Having regard to the fact that the zoning of the development site expressly provides for residential development, it was not considered necessary to consider alternative locations in detail. A number of site layout and alternative designs were considered during the iterative design process in consultation with the planning authority and ABP. The development as now proposed is considered to have arrived at an optimal solution in respect of making efficient use of zoned, serviceable lands whilst also addressing the potential impacts on the environment relating to residential, visual, natural and environmental amenities and infrastructure. The description of the consideration of alternatives in the EIAR is reasonable and coherent, and the requirements of the directive in this regard have been satisfactorily addressed.

### 11.4. **Assessment of the Likely Significant Direct and Indirect Effects**

11.4.1. The likely significant 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.

#### 11.4.2. Population and Human Health

This chapter evaluates the impacts of the development on human health of the population in the surrounding townlands of Drumnigh, Maynetown and Portmarnock,

Co. Dublin. According to the 2016 census results there are c. 3,621 no. people living within the study area. National health trends were consulted to give an overall indication of the general wellbeing of the population. Census data shows that the population in the Fingal County area grew by 8% between 2011 and 2016 compared with 3.8% nationally. The electoral division for the site, Portmarnock South, saw a lower rate of growth with an increase of 4.4% There is a potential for negative impacts to health during the construction phase of the development relating to increases in noise levels, air quality emissions and vehicle movements. These are discussed in more detail in each respective EIAR chapter

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Population and Human Health 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 impacts in terms of Population and Human Health.

#### 11.4.3. Biodiversity

EIAR Chapter 6 evaluates impacts on habitats, flora and fauna based on site surveys carried out at the LAP lands between 2016 and 2021 in the course of the previous planning applications, as well as a recent survey carried out on 23<sup>rd</sup> September 2021, two bat surveys carried out May 25<sup>th</sup> and 26<sup>th</sup> 2021 and a breeding bird survey carried out on May 25<sup>th</sup> and 26<sup>th</sup> 2021.

The site is adjacent to the Baldoyle Bay SPA (000199) and SAC (004016) European sites and there are several other European sites within 15 km. The development is subject to AA and a NIS is submitted in relation to European sites. In addition to the European sites, there is a number of other sites designated for nature conservation in the wider area surrounding the site. These include Baldoyle Bay proposed Natural Heritage Area (pNHA) (site code 000199), North Dublin Bay pNHA (000206) and Malahide Estuary pNHA (000205). These sites are contiguous with the European sites under appraisal. The Sluice River Marsh pNHA (001763) is located c. 600m to the north of the development site and includes a total of seven notable habitats, including wet willow-alder wetland, reedbed and swamp, wet grassland, marsh and upper saltmarsh. The nationally rare curved hard grass (*Parapholis incurva*) is

known from the site, which is also utilised by several bird species in winter, including light-bellied Brent geese, redshank, bar-tailed godwit, little egret, kingfisher and merlin. The bird species that utilise the Sluice River Marsh pNHA are likely to form part of the overall bird assemblage of Baldoyle Bay SPA and are therefore considered in the NIS. Given its location relative to the development site, it is not considered remotely likely that the other habitats and species within and associated with this pNHA will be impacted upon.

The habitats present at the development site comprise:

- The north-western portion of the main proposed residential area, east of the railway line, comprises sections of former arable fields. This area is very heavily disturbed north of a mature hedgerow/tree line and townland boundary. Parts of the site have been stripped for the purpose of archaeological investigation and much of the rest is used for building material storage with areas of spoil and bare ground. These habitats are species poor and do not have any ecological value.
- The south-western portion of the main residential area, also to the east of the railway line, comprises part of a now-disused arable field, to the south of the mature hedgerow/tree line and townland boundary. This area contains no habitats of any ecological value and is entirely occupied by previously cultivated soil and bare ground as well as recolonising bare ground.
- Further to the east of the north-south hedgerow/tree line and townland boundary, there is more disused agricultural land, much of which is to be developed as Skylark Park. Further east again is an area of land currently occupied by spoil and bare ground.
- The townland boundary hedgerow and tree line comprise native species such as hawthorn (*Crataegus monogyna*), blackthorn (*Prunus spinosa*), ash (*Fraxinus excelsior*), elm (*Ulmus minor*), goat willow (*Salix caprea*), dog rose (*Rosa canina*) and spindle (*Euonymus europaeus*). The eastern hedgerow (the section to the east of the proposed Skylark Park) is more scrubby and is dominated by blackthorn and bramble (*Rubus fruticosus* Agg.). The understorey of the hedgerows is narrow, species poor and heavily dominated by bramble and nettle (*Urtica dioica*).

- To the south and east of the main development land, at the location of the proposed connection to Mayne Road, the site area includes a section of former arable land and agricultural grassland within landscape and ecological buffer areas (previously transferred to FCC) which enclose the residential zoned lands to the east and south.

The trees on the site, in particular along the townland boundaries, are suitable for use by commuting and foraging bats. A total of four bat species (common pipistrelle, soprano pipistrelle, Leisler's bat and brown long-eared bat) were recorded foraging on site during the surveys undertaken in 2021. No bat roosts were recorded on the site in 2021 and surveys confirmed that the bat boxes installed previously within the townland boundary remain unused by bats. The bird community present is typical of such a site. Three amber listed species of medium conservation concern (starling, swallow and skylark) were recorded during the field visits, and no red list species (of high conservation concern) were recorded. Appraisals of the site were undertaken in 2021 to assess its suitability for use by birds that favour open farmland or rough pasture, such as lapwing and curlew (red list species) or pale-bellied Brent goose (amber list). However, no signs of these or any similar species were recorded and the site itself is assessed as not of any significant value for these species. No evidence of badgers, reptiles or amphibians has been recorded and no significant features suitable for use by these species was recorded on or in the vicinity of the site. The townland boundary running through the centre of the development site is the only feature of any ecological interest in the immediate vicinity. The EIAR assesses the townland boundary as of Local Importance (Higher Value). There are no areas of high ecological value present in the remainder of the site, which is assessed as of Local Importance (Lower Value).

Potential impacts during the construction phase include disturbance associated with lighting, noise, vibration, human activities and dust deposition, as well as surface water contamination with suspended solids, hydrocarbons and concrete/cement products. There is also a potential risk to flora and fauna arising from the established construction compound to the north of the connection to Mayne Road. The area is not used by SPA bird species, and it is not expected that there will be any significant impacts on any SPA bird species, however, there remains the potential for temporary slight negative impacts on Baldoyle Bay SAC and SPA, via potential visual

disturbance of birds on the estuary. No other impacts are expected. Access to the site for construction traffic will be via the construction haul road from Mayne Road, permitted under FCC Reg. Ref F20A/0700. The construction haul road is expected to be operational in December 2021.

Potential operational impacts relate to habitat loss and disturbance within the site. The development will remove parts of fields of low ecological value, which will have no long-term impacts on biodiversity. Other than several breaks, required to create pedestrian and vehicular connections, the hedgerow/tree line is to be retained and managed as an ecological feature within open spaces (Skylark Park and Linear Parks). The creation of additional gaps in the townland boundary hedgerow would represent a local, permanent moderate negative impact. It is however not expected that significant numbers of trees will be removed to facilitate the development, and the townland boundary will be protected during construction. Short sections of the existing roadside boundary hedgerow at Mayne Road will also be removed for visibility at the new junction. However, new hedgerows will be reinstated along the setback line. It is not expected that there will be any significant impacts on ecological receptors such as nesting birds or commuting or foraging bats as a result of the development. No impacts on badgers and other large mammals, amphibians, reptiles, lepidoptera or other species groups are anticipated.

The completed development could also have impacts on surface water quality due to runoff contamination such as petrol and oil from vehicles, home heating oil spillages and other contamination. However, provided that site facilities are correctly designed, and proper working procedures are strictly adhered to, no impacts on existing watercourses are expected, either during the construction or operation of the development. The regional wetland, to which Phase 1D will be connected, is operational in compliance with the planning conditions related to the Phase 1B development. This will ensure that there will be no long term impacts on surface water quality once the development is operational

The EIAR notes that Phase 1A of St. Marnock's Bay involved the implementation of significant mitigation measures, as envisaged in the LAP, including:

- Provision of an ecological buffer/parkland between the LAP RA zoned lands to the west and the boundary with Coast Road to the east and with Mayne Road to the south.
- Provision of a 'Quiet Zone' for birds, in the southern part of the LAP lands.
- Provision of an arable plot and retention of an existing small attenuation pond located between the above 'Bird Quiet Zone' and Mayne Road.
- Clearing of bramble scrub and reseeded of areas to grassland within the Murragh Spit east of the R106 Coast Road (within Baldoyle Bay SAC and SPA), undertaken in 2016 and 2017 in agreement with FCC and the NPWS, to provide additional areas of foraging habitat for bird species, in particular overwintering light-bellied Brent geese. This area is regularly maintained and remains suitable for use by protected birds.
- Treatment of invasive species listed on Schedule 3 of the Birds and Habitats Regulations, 2011 – 2015 specifically a small area of Japanese knotweed (*Fallopia japonica*) on the Murragh Spit and giant hogweed (*Heracleum mantegazzianum*) located within the Phase 1A lands.

Other mitigation measures associated with the current development comprise construction management measures including ecological monitoring, tree protection, management of invasive species, lighting in accordance with the recommendations of Bat Conservation Ireland, installation of bat boxes and surface water management during construction. Operational surface water discharge is to be managed via the regional wetland, with foul connection to the temporary pumping station (as upgraded), which connects to the foul sewer network. Foul water discharge from the site will connect to the public sewer network and will be directed to the Ringsend WWTP prior to discharge to Dublin Bay. The Ringsend WWTP is currently over capacity, however recent water quality assessment undertaken in Dublin Bay (published by the EPA) confirms that Dublin Bay is classified as "unpolluted" and there is no evidence that the over-capacity issues at Ringsend are affecting the conservation objectives of the European sites in Dublin Bay.

The EIAR does not predict any significant residual or cumulative impacts on biodiversity as a result of the development. There will be a limited loss of feeding within the site for bats and birds and a loss of nesting areas for birds during the

construction phase. Vegetation will establish over time and these losses will be reduced considerably. There will still be less cover for birds following all mitigation. There will be very limited (negligible to slight negative) impact upon bats within the site given the low level of bat activity noted. There will be limited or no loss of roost potential as the site develops and with the provision of bat boxes. While the development may have some temporary negative impacts at the local level, these impacts will be fully mitigated through the implementation of the landscaping scheme. Once the development is operational and over time these impacts will be rendered negligible.

Observers state that Malahide shellfish waters are Designated Class A which is the highest standard achievable and submit that Seafood Protection Authority (SFPA) were not consulted in this instance, with regard to potential effects on the designated shellfish area off Portmarnock and Baldoyle. I note that the SFPA were consulted on this issue on Phase 1B, which included the detention pond and regional wetland area surface water infrastructure that now serves the overall LAP lands. I am satisfied overall that the development includes adequate mitigation measures to ensure that there will be no adverse impacts on water quality during the construction or operation phases.

I have considered all the submissions and having regard to the above. I note that third parties state many concerns about the ecological sensitivity of the site and potential adverse impacts on local wildlife due to habitat loss and fragmentation, loss of trees and hedgerows and potential adverse impacts on water quality. I consider that the EIAR is based on adequate survey information, noting in particular the habitat surveys, bat survey and topographical information on file. Having regard to the EIAR, I am satisfied that impacts predicted to arise in relation to Biodiversity 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 impacts in terms of Biodiversity.



#### 11.4.4. Land, Soil and Geology and Hydrology

EIAR Chapter 7 is based on site investigations carried out at the development site in 2018 as part of the preparation for the Phase 1B application. Site investigations were also previously carried out in 2006.

Teagasc soil mapping indicates that the soils beneath the development site are comprised primarily of deep, well drained mineral soil derived from calcareous parent material (BminDW) and poorly drained mineral soil derived from calcareous parent materials (BminPD). A narrow section of Alluvial soils (AlluvMIN) also traverses the proposed site access (following a ditch line) in the southern part of the site close to Mayne Road. Soils have been previously stripped and part of the area is now in use as a construction compound and a temporary haul road south towards Moyne Road. The GSI and Teagasc subsoil mapping database indicates that the development site is underlain by Till derived from limestones, with a small section of the southern part of the site traversed by Alluvium deposits. Ground investigations carried out in 2018 and 2006 found clay soils at the site.

The GSI Bedrock Geology Map indicates that the development site is underlain by Lower Carboniferous (Courseyan Stage) Limestones which is referred to as Malahide Formation. There are no Geological recorded sites on/at the development site. The site is underlain by Locally Important Aquifer (LI) that is bedrock which is moderately productive only in local zones and is composed of argillaceous bioclastic limestone and shale of Malahide Formation. The groundwater vulnerability at the site is classified as 'low' which indicates an overburden depth of c. 10m of low permeability soil is present, as confirmed by site investigations. The underlying bedrock aquifer is well protected from the downward migration of potential contaminants. There are no boreholes or wells at the site or in the vicinity and no evidence of karstification. No water was encountered in any of the boreholes and trial pits during the site investigation works fieldwork period in 2018. However, groundwater was encountered during the 2006 site investigations in one out of six boreholes at 7.40m. The area where this borehole was dug has already been built over as part of Phase 1A of St. Marnock's Bay.

The construction phase of the development will involve excavation of an estimated c. 24,000 m<sup>3</sup> of material (including material excavated for drainage, services,

foundations, roads, parking and paths), which will be removed from site. Re-use of suitable material will be facilitated. It is estimated that c. 20,200 m<sup>3</sup> of fill, stone and aggregates will be imported to complete the development. Potential impacts during the construction phase include the leakage or spillage of construction related materials on site. The impact of accidental spillages on soils is assessed as negligible in magnitude and imperceptible in significance. Aquifer vulnerability may be slightly increased during construction, however, due to the thickness of low permeability overburden (>10 m) and the “low” groundwater vulnerability classification, the impact of the reduction in overburden depth on the groundwater quality will be negligible in magnitude and imperceptible in significance and highly unlikely as there are no proposed discharges to ground. While the completed development will result in the creation of c. 4.1 ha of impermeable surfaces, which will reduce recharge to the aquifer, the presence of >10 metres of low permeability overburden currently severely restrict recharge. The reduction in recharge to the aquifer is insignificant when compared to the overall recharge area to the aquifer, which amounts to thousands of ha. Taking into account the fact that the aquifer is only locally important and that there are very few groundwater users, the overall impact on the groundwater resource due to loss in recharge area will be imperceptible.

The CEMP identifies relevant mitigation measures including construction monitoring, waste management, re-use of materials, safe storage of topsoil and control of water pollution. No significant residual construction or operational impacts are identified. The EIAR considers cumulative impacts on land, soil and geology and hydrology associated with the previous phases of St. Marnock’s Bay. No significant cumulative impacts are anticipated.

I have considered all the submissions and, having regard to the above, I am satisfied that impacts predicted to arise in relation to Land, Soil and Geology and Hydrology 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 impacts in terms of Land, Soil and Geology and Hydrology.

#### 11.4.5. Water

EIAR Chapter 8 considers impacts on the water environment, based on a cumulative assessment of impacts associated with the current phase of St. Marnock's Bay as well as previous Phases 1A, 1B and 1C and the provision of associated road and drainage infrastructure. There are several natural watercourses in the vicinity of the development site. The Sluice River runs c. 150m north of the temporary pumping station and outfalls into the head of Baldoyle Bay at Portmarnock Bridge. The southern part of the LAP lands is connected to the Mayne River via an open ditch which runs parallel to and then crosses the Mayne Road. The Mayne River runs c. 600m to the south of the development site. It also discharges to Baldoyle Bay to the south of the Moyne Road /Coast Road junction. Baldoyle Bay/Mayne Estuary (700m to the east of the development site) is a tidal estuarine bay protected from the open sea by a large sand-dune system and is both a Special Area of Conservation (SAC) – Site Code 000199, designated under the Habitats Directive and a Special Protection Area (SPA) – Site Code 004016, designated under the Birds Directive. The LAP lands slope to the north towards the Sluice River, to the east towards the Mayne Estuary and to the south towards the Mayne River.

The LAP lands are divided into three catchments, as detailed in section 10.7 above. Surface water from the residential development in Catchment 1 will drain to the regional wetland, with attenuated outfall to the Baldoyle Estuary. Surface water flows from the new connection to Mayne Road in Catchment 3 will drain to two no. proposed local wetlands located east of the road connection, within the Ecological Buffer Zone, prior to discharge through petrol interceptors to the existing ditches at two locations; 175m north of Mayne Road and the existing drainage ditch alongside Mayne Road.

The development is to be served by the temporary wastewater pumping station currently serving the LAP lands, including upgrades currently proposed within the red line site boundary, pending the proposed upgrade of Portmarnock Bridge pumping station. The outcome of the current IW application to upgrade the Portmarnock Bridge pumping station cannot be anticipated at present and it is therefore necessary to assume that the proposed temporary arrangement will be in place indefinitely. The temporary station discharges to the gravity sewer in Coast Road, which in turn outfalls directly (bypassing the Portmarnock Bridge Pumping Station) into the Mayne

Bridge Pumping Station. The proposed additional operational storage, telemetry and PLC upgrades, allow for the operational demand management of all three pumping stations at Portmarnock Bridge, Mayne Bridge and St. Marnock's temporary pumping station. The developer will continue to operate and maintain the temporary pumping station under a maintenance agreement.

Potential water impacts considered in the EIAR relate to the following issues:

- Flooding. The Board's attention is drawn to section 10.7 above, which summarises the SSFRA, and concludes that the entire development, including the proposed upgrade to the temporary pumping station at Station Road, is within Flood Zone C and therefore does not require a Justification Test as per the Flood Risk Management Guidelines. There is no loss of or depletion to existing floodplain cross sectional area, or storage as a result of this development and any surface water generated as result of increase in hardstanding is being managed using SuDS principles (mitigation by design), therefore the impact is assessed as negligible.
- Accidental spills/leaks. Negligible impact associated with car parking bays. Source controls including oil interceptors are installed on the surface water network and the regional wetland, prior to discharging to the estuary. The drainage design follows a sustainable drainage strategy (SuDS) i.e., mitigation by design, and as such any surface water runoff will follow a surface water management train approach with the focus not only on controlling the quantity of discharge flows through attenuation, but on providing treatment storage to remove pollutants and thus improve quality of water being discharged to the estuary. The key component of this approach is the Regional Wetland, which is already constructed.
- Emergency foul overflows. The existing temporary pumping station is not susceptible to surface water inflows and has storage capacity to cater for the current and previous phases of development. Due to the provision of additional storage, the peak discharge from this interim pumping station will remain as it currently is. There will be no increase in the potential risk of foul overflows due to the development, since it is downstream of the existing Portmarnock Bridge pumping station, and the provision of additional storage as well as telemetry will

facilitate Irish Water's control and management of all three pumping stations during peak events. In addition, receipt of the confirmation of feasibility from IW indicates downstream infrastructure beyond the local pumping network also has the capacity to cater for this development. Therefore, magnitude of the impact is assessed to be negligible.

- Potential construction impacts relating to an increase in sediment contamination; accidental spills/leaks and spillages arising from concreting operations. These are to be mitigated by construction management measures, as set out in the CEMP.

No significant residual or cumulative impacts on water are identified.

I have considered all the submissions and having regard to the above. I am satisfied that impacts predicted to arise in relation to Water 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, indirect, or cumulative impacts in terms of Water impacts.

#### 11.4.6. Climate (Air Quality and Climate Change)

The occupation of the development would not be likely to have a significant effect on climate or air quality. The construction phase could affect air quality at nearby sensitive receptors through the emission of dust. However, any such effects can be properly limited through the proposed dust mitigation measures outlined in the CEMP, including monitoring. In addition, construction phase traffic will have an imperceptible, neutral and short-term impact on air quality. Due to short-term nature of these works, the impact on climate will not be significant. No significant cumulative or residual impacts are identified.

I have considered all the submissions and having regard to the above. I am satisfied that impacts predicted to arise in relation to Climate (Air Quality and Climate Change) 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 impacts in terms of Climate (Air Quality and Climate Change).

#### 11.4.7. Climate (Sunlight and Daylight)

The Board is referred to section 10.3.4 above in respect of sunlight and daylight impacts on existing/permitted adjacent residential properties with regard to British Standard, BS 8206-2:2008: Lighting for buildings - Part 2: Code of practice for daylighting (the British Standard) and to the Building Research Establishment's Site layout planning for daylight and sunlight: a guide to good practice (the BRE Guide). The above assessment concludes that the development would not have such a significant adverse impact on residential amenities by way of overshadowing such as would warrant a refusal of permission.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Climate (Sunlight and Daylight) 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 impacts in terms of Climate (Sunlight and Daylight).

#### 11.4.8. Air (Noise and Vibration)

EIAR Chapter 11 considers both (i) an assessment of inward noise impacts on the development associated with proximity to Dublin Airport flight paths and to the Dublin Belfast railway line and (ii) an assessment of potential noise and vibration impacts on the surrounding environment associated with the construction and operational phases of the development.

The assessment of inward noise impacts is based on the guidance provided in the Dublin Agglomeration Noise Action Plan 2019 – 2023 and the Professional Guidance on Planning & Noise (ProPG) document (2017). The ProPG outlines a systematic risk based two stage approach for evaluating noise exposure on prospective sites for residential development with the. The two primary stages of the approach can be summarised as follows:

- Stage 1 Comprises a high level initial noise risk assessment of the proposed site considering either measured and or predicted noise levels; and,
- Stage 2 Involves a full detailed appraisal of the proposed development covering four "key elements" that include:
  - Element 1 – Good Acoustic Design Process.

- Element 2 – Noise Level Guidelines.
- Element 3 – External Amenity Area Noise Assessment.
- Element 4 – Other Relevant Issues.

A key component of the evaluation process is the preparation and delivery of an Acoustic Design Statement (ADS) to be submitted to the planning authority. The ADS is intended to clearly outline the methodology and findings of the Stage 1 and Stage 2 assessments, so as the planning authority can make an informed decision on the permission.

The Noise Risk Assessment is based on an attended noise survey carried out at three receptors in the vicinity of the site on Friday 18<sup>th</sup> June 2021. I am satisfied that the locations chosen are representative of noise sensitivity in the area. The results of the attended noise survey may be summarised as follows:

Location	Measured Noise Levels (dB re. 2x10 <sup>-5</sup> Pa)			
	L <sub>Aeq</sub>	L <sub>AFmax</sub>	L <sub>A10</sub>	L <sub>A90</sub>
<b>AT1</b> Northern site boundary adjacent to the railway line	45-59	60-83	49-59	37-48
<b>AT2</b> Residential development west of the railway line	45-52	72-79	43-48	35-37
<b>AT3</b> Southern site boundary adjoining the Ecological Buffer Zone	50-56	71-76	47-55	37-39

Unattended noise measurements were also carried out at one receptor on the western side of the site, adjacent to the railway line, between 14:55 on Thursday 19<sup>th</sup> August and 06:55 on Tuesday 24<sup>th</sup> August 2021. The unattended noise survey found average daytime noise levels in the range 58-59 dB L<sub>Aeq</sub> and 35-43 dB L<sub>A90</sub>. Average night-time noise levels were in the range 52-53 dB L<sub>Aeq</sub> and 28-33 dB L<sub>A90</sub>. L<sub>Aeq</sub> and L<sub>AFMax</sub> values were measured at 15-minute intervals over the duration of the survey. The noise level of 75 dB L<sub>Amax</sub> was not normally exceeded. The Noise Risk

Assessment also compares the above findings to noise maps produced by FCC and the DAA as part of the noise mapping requirements under the European Noise Directive (END), which present the noise levels incident across the site over the course of an annual average day or night. The noise zone contour produced by FCC for the future operation of Dublin Airport including the North Runway is also used to characterise the future noise environment. As activity at the airport was reduced at this time due to Covid19 travel restrictions, the Noise Risk Assessment also refers to the EPA strategic noise mapping data for Dublin Airport to establish typical noise levels incident on the site for comparison to the measured levels. The Noise Risk Assessment also notes the following worst case noise levels incident to dwellings and external amenity areas provided for Noise Zone B in development plan Variation no. 1:

- Daytime: 63 dB  $L_{Aeq,16hr}$ .
- Night-time: 55 dB  $L_{night}$

Based on the above, the Noise Risk Assessment concludes that the development site may be characterised as 'low to medium risk' with regard to the guidance provided in the ProPG document. As such, an Acoustic Design Strategy is required to demonstrate that suitable care and attention has been applied in mitigating and minimising noise impact to such an extent that an adverse noise impact will be avoided in the final development.

EIAR section 11.5.1.3 sets out an Acoustic Design Statement. This provides proposed acoustic design details including construction masonry, glazing and acoustic ventilation, which will be used to achieve an internal acoustic environment that meets internal target noise levels as per ProPG and the British Standard BS EN 12354-3: 2000: Building acoustics – Estimation of acoustic performance of buildings from the performance of elements – Part 3: Airborne sound insulation against outdoor sound.

External noise levels across the site during the daytime, with the North Runway in operation, are expected fall in the region of 63 dB  $L_{Aeq,16hr}$ . It is noted that whilst external amenity areas located in Zone B would be above the desirable level of 55 dB  $L_{Aeq,16hr}$  it is not possible to reduce the noise level across external spaces due to aircraft noise being the dominant noise source.



The assessment of potential noise and vibration impacts during the construction phase takes into account noise from traffic and mechanical plant. The proposed general construction hours are 07:00 to 18:00hrs, Monday to Friday and 08:00 to 14:00hrs on Saturdays, with occasional weekday evening works as necessary. Typical construction noise levels are predicted using guidance set out in BS 5228-1 and potential impacts at four no. Noise Sensitive Receptors (NSRs) in the vicinity of the site are considered. I am satisfied that the locations chosen are representative of noise sensitivity in the area. The indicative construction noise prediction values are within the criterion of 70 dB  $L_{Aeq,1hr}$  for weekdays but in excess of the criterion for the closest location, N1. Construction noise impacts as assessed as significant to moderate. A Construction Noise Management Plan will detail best practice operational and control measures for noise and vibration from construction sites as per BS 5228 (2009 +A1 2014) Code of Practice for Noise and Vibration Control on Construction and Open Sites Parts 1 and 2, including noise and monitoring. Residual construction noise and vibration impacts are assessed as negative, significant and temporary at NSLs within 50m of the development. No significant cumulative construction noise or vibration impacts are predicted.

Potential operational noise impacts are primarily associated with additional vehicular traffic on surrounding roads. The predicted change in noise levels is assessed based on traffic projections in the TTA. The predicted increase in traffic flows associated with the development in the design year of 2038 will result in an increase <1dB along all roads receiving traffic from the development. This impact is assessed as neutral, imperceptible and permanent. The EIAR also considers potential noise impacts associated with the new connection to Mayne Road. Predicted noise levels at Moyne Lodge (nearest NSL) due to the link road are of the order of 49 dB. Measured noise levels at noise survey location AT3 at the southern site boundary are in the range 50-53 dB  $L_{Aeq}$ . The EIAR concludes on this basis that vehicle noise from Mayne Road at this location is not significant. No vibration impacts are predicted from the operational phase of the development and no significant cumulative impacts are envisaged, subject to implementation of the proposed mitigation measures.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Air (Noise and Vibration) 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 impacts in terms of Air (Noise and Vibration).

#### 11.4.9. Landscape and Visual Impact Assessment

The LVIA assesses the sensitivity of the receiving landscape environment as medium, and I would accept this conclusion in terms of the immediate site context.

The Board is referred to section 10.4.2 above in respect of landscape and visual impacts as set out in the LVIA. The above assessment concludes that the development would not have such significant landscape and visual impacts such as would warrant a refusal of permission.

Mitigation measures comprise the retention of trees and hedgerows, enhancement with new planting and the provision of connected areas of open space with a high quality design and finish. The overall change to landscape character is predicted to be Moderate-Neutral.

The EIAR considers cumulative landscape and visual impacts associated with the previous and potential future phases of the development of the LAP lands, as well as further amenity and heritage related developments in the OS zoned lands and potential future drainage and wastewater infrastructure works in the vicinity. No significant cumulative impacts are predicted.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Landscape and Visual Impact 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 impacts in terms of Landscape and Visual Impact.

#### 11.4.10. Material Assets (Transportation)

EIAR Chapter 13 considers traffic and transportation impacts associated with the development. The Board is referred to section 10.5 above in respect of traffic and transportation, which summarises the EIAR findings. The above assessment concludes that the development would not have such a significant adverse impact on traffic and transport in the area as would warrant a refusal of permission. The highly

accessible location of the development and the submitted mobility management proposals are also noted in this regard.

I note observer comments regarding the methodology used in EIAR Chapter 13. EIAR section 13.2 summarises the methodology used, including documents referred to, and I am satisfied that same is robust. The findings of EIAR Chapter 13 are based on the findings of site visits, traffic observations, on-site traffic counts and architectural plans. While I note third party concerns in relation to the historic traffic counts, as discussed above, I consider that the historic data is more likely to be reflective of the post-Covid situation than the patterns during the lockdown period, which was the only information available to the applicant while the current application was being prepared. I am satisfied that the EIAR gives adequate consideration to cumulative traffic impacts, taking the previous phases of St. Marnock's Bay into consideration.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Material Assets (Transportation) 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 impacts in terms of Material Assets (Transportation).

11.4.11. Material Assets (Waste and Utilities)

EIAR Chapters 14 and 15 consider impacts on existing waste and utility services in the vicinity including electricity supply, telecommunications and broadband and water supply. No significant impacts are predicted.

I have considered all the submissions and having regard to the above, I am satisfied that impacts predicted to arise in relation to Material Assets (Waste and Utilities) 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 impacts in terms of Material Assets (Waste and Utilities).

#### 11.4.12. Cultural Heritage (Archaeological and Architectural)

EIAR Chapter 16 details the archaeological and historical background of the site including archaeological findings as a result of investigations undertaken to assess the archaeological potential of the development site comprising geophysical survey, test excavation and excavation as well as investigations and archaeological monitoring which were undertaken across the site for the previous phases of works (Phase 1A, 1B and 1C 2016 – 2019). It also describes recent excavations in lands adjacent to the development, west of the Dublin-Belfast Railway Line, but which are part of the same overall archaeological landscape.

There are no RMP/SMR sites recorded within the development site. The wastewater upgrade works are located in an area previously excavated. This area revealed the remnants of a medieval settlement (13<sup>th</sup> – 17<sup>th</sup> century) and the following SMR numbers have been assigned to the site, DU015-136001/002/003. The archaeology has been removed from the site as a result of the excavation and no further archaeological works are required. A geophysical survey carried out within the development site did not identify any anomaly of obvious archaeological potential. Archaeological testing along the proposed connection to Mayne Road did not identify any features of archaeological interest. The Portmarnock/Drumnigh townland boundary separates the main part of the development site from existing housing and ongoing construction to the north and west. The boundary is presumably following the line of an early medieval enclosure which forms part of a previously excavated double-ditched enclosure site that lies to the immediate west of the development site. The Drumnigh/Maynetown townland boundary is on the eastern side of the development site. Both boundaries are considered to be of some antiquity as they are shown on the Down Survey map of 1656. Archaeological excavation across two 10m sections of the townland boundaries under Phase 1C revealed the morphologies of these boundaries. The southern end of the development site is bounded to the west by a low stone wall separating the site from the railway line. There are two monuments (DU015-135 and DU015-118) at the south-facing slope of the east-west ridge to the south of the development site. The monuments, identified by geophysical survey are thought to be enclosures with evidence of internal pits and postholes, have no visible surface expression. Two significant recorded monuments, the Portmarnock mound DU015-014 and the Maynetown enclosure DU015-055, both

located outside the development site but within the Portmarnock South LAP lands, are to be preserved in-situ in accordance with a multidisciplinary conservation plan agreed with the National Monuments Service of the Department of Environment, Heritage and Local Government (now the DHLGH) and FCC. The mound is also listed as a protected structure (RPS No. 0475) in the development plan.

The EIAR assesses the archaeological potential of the development site as low. Archaeological monitoring during the site preparation and construction stages is recommended. The lands are to be archaeologically assessed and where below ground remains are revealed, they are to be mitigated and excavated in accordance with the requirements of the DHLGH and FCC. The retention of the townland boundaries will assist in the protection of the cultural heritage of the area across all phases of development. No significant cumulative or residual impacts are identified.

The closest site of architectural merit is St. Marnock's Church (RPS 0457; NIAH 11350030), approximately 650m northwest of the application site, dating to 1786–8. There are several sites located in Portmarnock Village, along the Strand Road and Coast Road, which date to the 18<sup>th</sup> and 19<sup>th</sup> centuries. The townland boundaries which are of a cultural heritage interest will be retained within the development and no significant impacts to them are predicted.

I note the comments of FCC Heritage Officer, dated 17<sup>th</sup> December 2021, which archaeological testing at the site. I note that the EIAR consideration of archaeological impacts is based on geophysical survey, test excavation and excavation as well as investigations and archaeological monitoring which were undertaken across the site for the previous phases of works.

I have considered all the submissions and having regard to the above. I am satisfied that impacts predicted to arise in relation to Cultural Heritage (Archaeological and Architectural) 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 impacts in terms of Cultural Heritage (Archaeological and Architectural).

## 11.5. Cumulative Impacts

11.5.1. I have addressed the cumulative impacts in relation to each of the environmental factors above. EIAR Chapter 21 presents a summary of cumulative impacts and interactions and I consider that the EIAR presents a comprehensive consideration of the relevant developments within the wider area where there is potential for cumulative impacts with the proposed development. In conclusion, I am satisfied that effects arising can be avoided, managed, and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of cumulative impacts.

## 11.6. Reasoned Conclusion on the Significant Effects

11.6.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR including EIAR Chapter 18 Summary of Mitigation Measures, to the supplementary information which accompanied the application, and the submissions from the planning authority, observers, and prescribed bodies 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:

- Positive impacts on population and human health due to the increase in the housing stock within the Portmarnock area.
- Biodiversity impacts, which will be mitigated by tree and hedgerow protection during construction; protection of vegetation from dust during construction; measures to protect surface water quality during construction and operation; bat mitigation measures; landscaping or replacement of trees and hedgerows; measures to avoid disturbance to animals during construction; lighting control measures and post construction monitoring, along with the mitigation measures designed to mitigate any potential impacts on the Special Conservation Interests and Qualifying Interests of Baldoyle Bay SPA and SAC and implemented under previous phases of St. Marnock's Bay, which are now subject to ongoing monitoring and which include:
  - Provision of a large area of ecological buffer/parkland, located between residential zoned lands within the LAP to the west and the boundary with Coast Road to the east and with Mayne Road to the south.

- Provision of a 'Quiet Zone' for birds, in the southern part of the Portmarnock South Local Area Plan lands.
  - Provision of an arable plot and retention of an existing small attenuation pond located between the above 'Bird Quiet Zone' and Mayne Road.
  - Clearing of bramble scrub and reseeding of areas to grassland within the Murragh Spit east of the R106 Coast Road (within Baldoyle Bay SAC and SPA), undertaken in 2016 and 2017 in agreement with Fingal County Council and the National Parks and Wildlife Service, to provide additional areas of foraging habitat for bird species, in particular overwintering light-bellied Brent geese.
  - Treatment of invasive species listed on Schedule 3 of the Birds and Habitats Regulations, 2011 – 2015 specifically a small area of Japanese knotweed (*Fallopia japonica*) on the Murragh Spit and giant hogweed (*Heracleum mantegazzianum*) located within the St. Marnock's Bay Phase 1A lands.
- Water impacts, which will be mitigated by construction management measures, SuDS measures, surface water management and monitoring and wastewater treatment, including upgrade works to the St. Marnock's Bay temporary pumping station.
  - Landscape and visual impacts, which will be mitigated by construction management measures and by the retention and enhancement of existing trees and hedgerows and new landscaping and by the overall quality of the design and finish of the proposed development.
  - Traffic and transportation impacts, which will be mitigated by construction traffic management, junction upgrades at the Drumnigh Road/Station Road and Strand Road/Coast Road/Station Road junctions, a Mobility Management Plan and by the provision of pedestrian and cycle facilities.

11.6.2. Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described, and assessed. The environmental impacts identified are not significant

and would not require or justify refusing permission for the proposed development or require substantial amendments.

## **12.0 Appropriate Assessment**

### **12.1. AA Introduction**

- 12.1.1. The assessment is based on the submitted Natura Impact Statement (NIS) and AA Screening report prepared by Brady Shipman Martin, dated 26<sup>th</sup> November 2021. I have had regard to the submissions of observers, prescribed bodies and the planning authority in relation to the potential impacts on Natura 2000 sites. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 12.1.2. The applicant's NIS report is supported by a long-term study of the development site and the wider area that was completed in November 2021 and focused on habitats and species that are listed as Qualifying Interests (QI) (in the case of SACs) and Special Conservation Interests (SCI) (in the case of SPAs) in the designations for the European sites as well as on the published generic and site-specific Conservation Objectives for each European site. Several field visits were undertaken over several years, including several in 2021, most recently on 23<sup>rd</sup> September 2021. Birds present at the development site were recorded during the surveys and an assessment of habitat suitability for European protected species and species with links to European sites was undertaken, in order to appraise the potential for ex-situ effects on European sites. Bat, breeding bird and habitat surveys were also undertaken in 2021. The NIS is supported by several other reports on file that provide information in relation to designated sites including the EIAR, Public Lighting Report, Landscape Design Rationale, Tree Planting Plan, Arboricultural Impact Assessment, Flood Risk Assessment, Water Services Report and the Construction and Environmental Management Plan. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used. The information



contained within the submitted reports is considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development.

## 12.2. The Project and Its Characteristics

12.2.1. See the detailed description of the proposed development in section 3.0 above.

## 12.3. Submissions and Observations

12.3.1. The submissions and observations from the planning authority, prescribed bodies, and third parties are summarised in sections 7, 8 and 9 above. The planning authority in their Chief Executive Report note the submission of the NIS. They do not make any other comment in relation to AA, beyond noting the status of ABP as a Competent Authority. The submissions by Irish Rail, Irish Water and Transport Infrastructure Ireland do not make any comment on the relationship between the proposed development and designated sites. Matters raised in third party submissions are addressed below.

## 12.4. Stage I Screening

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

12.4.2. In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the development site to the European Sites, and any potential pathways which may exist from the development site to a European Site, aided in part by the EPA Appropriate Assessment Tool ([www.epa.ie](http://www.epa.ie)). The applicant's report identifies a number of Natura 2000 sites sufficiently proximate (within 15 km) and/or linked to the site to require consideration of potential effects. These are listed below with approximate distances to the application site indicated:

Designated Site (Site Code)	Distance to Development	Qualifying Interests/ Conservation Objectives
<b>Special Areas of Conservation</b>		
Baldoyle Bay SAC (000199)	c.250m to the northeast	The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:

		<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>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p>
<p>Malahide Estuary SAC (000205)</p>	<p>c.2.5km to the north</p>	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</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>Glauco-Puccinellietalia 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>North Dublin Bay SAC (000206)</p>	<p>c.3.3km to the south</p>	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats and Annex II species, as defined by specific attributes and targets:</p> <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>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</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>Humid dune slacks [2190]</p> <p><i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>
Rockabill to Dalkey Island SAC (003000)	c.4.9km to the east	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitat and Annex II species, as defined by specific attributes and targets:</p> <p>Reefs [1170]</p> <p><i>Phocoena</i> (Harbour Porpoise) [1351]</p>
Ireland's Eye SAC (002193)	c.5.1km to the east	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p>
Howth Head SAC (000202)	c.5.4km to the southeast	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>European dry heaths [4030]</p>
South Dublin Bay SAC (000210)	c.8.4km to the south	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation</p>

		<p>condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <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>
Rogerstown Estuary SAC (000208)	c.9.0km to the north	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats, as defined by specific attributes and targets:</p> <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>Glauco-Puccinellietalia 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>
Lambay Island SAC (000204)	c.10.9km to the northeast	<p>The conservation objectives for the SAC relate to the maintenance of a favourable conservation condition of the following Annex I habitats and Annex II species, as defined by specific attributes and targets:</p> <p>Reefs [1170]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p><i>Halichoerus grypus</i> (Grey Seal) [1364]</p>

		Phoca vitulina (Harbour Seal) [1365]
<b>Special Protection Areas</b>		
Baldoyle Bay SPA (0004016)	c.250m to the northeast	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Wetland and Waterbirds [A999]</p>
Broadmeadow/Swords Estuary (Malahide Estuary) SPA (004025)	c.3.2km to the north	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <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>North Bull Island SPA (004006)</p>	<p>c.3.2km to the south</p>	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Shelduck (<i>Tadorna tadorna</i>) [A048]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>

Ireland's Eye SPA (004117)	c.4.9km to the east	<p>The conservation objectives for the SPA generally relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA:</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p>
South Dublin Bay and River Tolka Estuary SPA (004024)	c.6.5km to the south	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</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>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Roseate Tern (<i>Sterna dougallii</i>) [A192]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>
Howth Head Coast SPA (004113)	c.6.6km to the southeast	<p>The conservation objectives for the SPA generally relate to the maintenance of the bird species listed as the Special Conservation Interest for the SPA:</p>

		Kittiwake ( <i>Rissa tridactyla</i> ) [A188]
Rogerstown Estuary SPA (004015)	c.8.8km to the north	<p>The conservation objectives for the SPA relate to the maintenance of the bird species and Annex I habitat listed as Special Conservation Interests for the SPA, as defined by the specific attributes and targets:</p> <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> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Wetland and Waterbirds [A999]</p>
Lambay Island SPA (004069)	c.10.8km to the northeast	<p>The conservation objectives for the SPA generally relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA:</p> <p>Fulmar (<i>Fulmarus glacialis</i>) [A009]</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Shag (<i>Phalacrocorax aristotelis</i>) [A018]</p> <p>Greylag Goose (<i>Anser anser</i>) [A043]</p> <p>Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]</p> <p>Herring Gull (<i>Larus argentatus</i>) [A184]</p> <p>Kittiwake (<i>Rissa tridactyla</i>) [A188]</p> <p>Guillemot (<i>Uria aalge</i>) [A199]</p> <p>Razorbill (<i>Alca torda</i>) [A200]</p>



		Puffin ( <i>Fratercula arctica</i> ) [A204]
Dalkey Islands SPA (004172)	c.15.5km to the south	The conservation objectives for the SPA relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA:  Roseate Tern ( <i>Sterna dougallii</i> ) [A192]  Common Tern ( <i>Sterna hirundo</i> ) [A193]  Arctic Tern ( <i>Sterna paradisaea</i> ) [A194]

In addition, the AA screening section of the document outlines in Figure 2 the geographical spread of sites and proximity to the subject site.

12.4.3. I have had regard to the AA screening section of the applicant's report (section 3.6 of same), which identifies direct source-pathway-receptor links that exist (i) between the proposed project and previously permitted regional wetland adjacent to the R106 Station Road and a surface water outfall to Baldoyle Bay SAC and SPA and (ii) between the development and Baldoyle Bay SPA, Malahide Estuary SPA and North Bull Island SPA, specifically the birds and wetland habitat Special Conservation Interests for which these sites are designated, via disturbance and emissions to water during construction and operation. There is no potential for habitat loss within the above SAC or SPAs.

#### 12.4.4. AA Screening Conclusion

Having regard to the above, 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 are:

- Baldoyle Bay SAC
- Baldoyle Bay SPA
- North Bull Island SPA
- Malahide Estuary SPA

as a result of the above source-pathway-receptor links via the surface water outfall to Baldoyle Bay SAC and SPA and via disturbance of species and emissions to water during construction and operation. As such likely effects on Baldoyle Bay SAC

(000199) and SPA (0004016), North Bull Island SPA (004006) and Malahide Estuary SPA (004025) cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 AA is required.

Significant impacts on the remaining SAC and SPA sites are considered unlikely, due to the distance, dilution factor and the lack of hydrological connectivity or any other connectivity with the application site in all cases having consideration of those sites' conservation objectives. 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 the following European Sites:

- Malahide Estuary SAC
- North Dublin Bay SAC
- Rockabill to Dalkey Island SAC
- Ireland's Eye SAC and SPA
- Howth Head SAC and SPA
- South Dublin Bay SAC
- Rogerstown Estuary SAC and SPA
- Lambay Island SAC and SPA
- South Dublin Bay and River Tolka Estuary SPA
- Dalkey Islands SPA

These sites are at such a distance from the development site that there would not be any significant effects on them as a result of habitat loss and/or fragmentation; impacts to habitat structure; disturbance to species of conservation concern; mortality to species (such as roadkill); noise pollution; emissions to air or emissions to water.

## 12.5. Stage II Appropriate Assessment

12.5.1. Section 4 of the NIS sets out an appraisal of predicted and potential impacts on European Sites, including impacts related to the construction phase and operational phases which may be summarised as follows.

- Release of contaminated surface water and other contaminants resulting in potential effects (both temporary and long-term) on the Special Conservation Interests of Baldoyle Bay SPA and SAC. While it is noted that estuaries and coastal sites rely on large quantities of sediment to function, it is noted that there is a risk of contaminants within the surface water runoff from a site, which can pose a risk to water quality. Dust deposition can also, in extreme cases, inhibit photosynthesis and can increase turbidity in water courses. Any change to surface water quality associated with the development may affect the habitats and species of Baldoyle Bay SAC and SPA.
- Disturbance via noise, vibration and human activities, which may impact on the species of Baldoyle Bay SAC and SPA, for example by reducing feeding time or causing birds to temporarily avoid certain areas. While this could potentially occur during site clearance and construction operations associated with the development, given the location of Phase 1D, adjacent to Phases 1A, 1B and 1C, these impacts are not expected to be significant, particularly given the mitigation measures that have already been implemented as part of the Portmarnock South LAP as associated with the Phase 1A, 1B and 1C developments, as well as the fact that much of the proposed construction site is within the same field as the completed Phase 1A and 1B developments and the ongoing Phase 1C development, and the remainder is within the area currently fenced off and used for construction material storage.
- Site compound location and haulage routes. The proposed site compound will be located to the northeast of the development site, on the northern side of the vehicle access road from Mayne Road. This is the site of the established construction compound, currently servicing the Phase 1C development works. The area is not used by SPA bird species, and it is not expected that there will be any significant impacts on any SPA bird species, however, there remains the potential for temporary slight negative impacts on Baldoyle Bay SAC and SPA,

via potential visual disturbance of birds on the estuary. Access to the site for construction traffic will be via the construction haul road from Mayne Road, permitted under FCC Reg. Ref F20A/0700.

- Lighting during the construction phase will be limited to the existing site compound (which will remain in place) and the proposed residential development areas. It is not expected that there will be any impacts on the bird species of the SPA or on any other biodiversity receptors. Similarly, there will be new public lighting associated with the new road connection to Mayne Road. Again, given the location of this feature there will be no impacts on the bird species of the SPA or on any other biodiversity receptors.
- Operational impacts associated with the loss of, or disturbance to, habitat, including feeding habitat for birds. The development site is of no importance as a feeding site for the bird species (the Special Conservation Interests) associated with Baldoyle Bay SPA (and, given the complex and interlinked relationships between the birds and their habitat use throughout the wider area of the Dublin coastline and beyond, the SCIs of North Bull Island SPA and Malahide Estuary SPA). The site is within a field that is already partly developed and heavily disturbed and contains no habitats (such as amenity grassland or managed agricultural grassland) likely to be used even occasionally or by small numbers of light-bellied Brent geese and waders. Furthermore, the significant measures that have been undertaken and the areas that are currently being managed for wildlife and that stem from the Portmarnock South LAP (such as the Bird Quiet Zone and the Murragh spit) will ensure that potential 'in-combination effects' potentially arising out of the full implementation of the LAP and other projects will not result in the loss of feeding habitat for the Special Conservation Interests of the SPA, in particular the light-bellied Brent geese, an internationally important population of which is associated with these SPAs.

12.5.2. Conservation objectives, threats and vulnerabilities of the four European Sites are set out in Section 4.2 of the NIS, and Section 4.3 of the NIS sets out an appraisal of the potential impacts on the sites having regard to their conservation objectives, which may be summarised as follows:

### 12.5.3. Baldoyle Bay SAC

The site specific conservation objectives for Baldoyle Bay SAC are to maintain the favourable conservation condition of each of the habitats that are listed as Qualifying Interests of the SAC. The NIS states that potential impacts on habitat area, habitat distribution, physical structure, vegetation structure and vegetation composition, due to scouring, erosion, pollution, sedimentation, spread of invasive species or loss of or damage to Qualifying Interest habitat will be avoided by appropriate construction and water management measures as set out in Section 4.4 of this NIS and in the submitted CEMP.

### 12.5.4. Baldoyle Bay SPA

The site specific conservation objectives for Baldoyle Bay SPA are to maintain the favourable conservation status of the six bird species which are listed as Special Conservation Interests of the SPA, as well as the wetland habitats in the SPA. The NIS notes that the habitat protection measures required under Objective GI 12 of the Portmarnock South LAP have been implemented under Phase 1A of the St. Marnock's Bay development. These measures seek to prevent any changes in bird populations due to any reduction in available feeding habitat or disturbance. The provision of new dedicated grassland areas in quiet zone lands that have been designed to provide feeding habitat for the birds of Baldoyle Bay SPA will avoid any significant impacts on feeding habitats and disturbance to birds during roosting or feeding. Potential impacts on habitat quality with Baldoyle Bay SPA due to changes in water quality and water flows will be avoided by appropriately designed construction and water management measures (as described in Section 4.4 of the NIS and as described in the CEMP). It is concluded that these measures will ensure that the attributes and their respective targets defined as part of the conservation objectives for the SPA will not be impacted upon by the development.

### 12.5.5. North Bull Island SPA and Malahide Estuary SPA

The conservation objectives for these two SPAs are to maintain the favourable conservation status of the bird species which are listed as Special Conservation Interests in each SPA, as well as the wetland habitat in the SPAs. The NIS states that the measures implemented to protect Baldoyle Bay SPA as described above will address any potential impacts on these SPAs.

#### 12.5.6. Mitigation Measures

NIS section 4.4 sets out proposed mitigation measures for the construction and operational stages of development.

Noise, dust and surface water emissions will be managed during construction as per the CEMP and Water Services Report, with ongoing monitoring and reporting a key part of the construction works, including monitoring by a suitably qualified and experienced ecologist.

Surface water emissions from the completed development will be managed via the regional wetland and storm water outfall that provide attenuation for Catchment Area 1 of the LAP lands. These were permitted under Phase 1B of St. Marnock's Bay and, according to the NIS and Water Services Report, are now fully operational. This storm water network has been designed to cater for the existing Phase 1A, Phase 1B Phase 1C (under construction), the proposed Phase 1D and all future phases of the entire development with the exception of Catchments No 2 and No 3, with outflows restricted by a flow control device. The development also includes SuDS features, as outlined in the Water Services Report.

Foul water from the development is to be managed by the existing temporary pumping station at Station Road, as constructed under Phase 1B, which is designed to hold back discharges from the St. Marnock's Bay development during rainfall events and hence eliminate impact on the existing Mayne Road pumping station (as detailed in Section 10.6.2 above). The existing temporary pumping station is to be upgraded with additional operational foul storage and telemetry and PLC upgrades to allow the local pumping stations to communicate with one another and to facilitate the operational demand management of the St. Marnock's Bay temporary station, the existing Portmarnock Bridge Pumping Station and the Mayne Road Pumping Station. These works are within the red line site boundary and are considered in the submitted NIS as part of the proposed development. NIS section 4.4.2.2 notes that the current IW application to FCC for a new Portmarnock Bridge pumping station remains pending but states that, regardless of the status of the new IW pumping station, the proposed development of Phase 1D can proceed without any impacts on any European Sites occurring. I note that this arrangement was considered

acceptable to the Board as part of the proposals for Phase 1B and Phase 1C lands (ref. ABP-300514-17 and ABP-305619).

With regard to wastewater, I also note that 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 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.

Other mitigation measures referred to in the NIS comprise the ongoing and full implementation of the Conservation Management Plan already implemented as part of the previous St. Marnock's Bay Phases 1A, 1B and 1C, in accordance with Objective GI 12 and section 5.2.1 of the Portmarnock South LAP, as detailed in NIS section 3.2, including:

- Provision of a large area of ecological buffer/parkland, located between residential zoned lands within the LAP to the west and the boundary with Coast Road to the east and with Mayne Road to the south;
- Provision of a 'Quiet Zone' for birds, in the southern part of the LAP lands;
- Provision of an arable plot and retention of an existing small attenuation pond located between the above 'Bird Quiet Zone' and Mayne Road;
- Clearing of bramble scrub and reseeded of areas to grassland within the Murragh Spit east of the R106 Coast Road (within Baldoyle Bay SAC and SPA), undertaken in 2016 and 2017. This was undertaken, in agreement with FCC and

NPWS, to provide additional areas of foraging habitat for bird species, in particular overwintering light-bellied Brent geese;

- Treatment of invasive species listed on Schedule 3 of the Birds and Habitats Regulations, 2011-2015, specifically a small area of Japanese knotweed (*Fallopia japonica*) on the Murragh Spit and giant hogweed (*Heracleum mantegazzianum*) located within the Phase 1A lands. No growth of these species has been observed in recent years, nevertheless the site will continue to be managed during future construction phases to ensure full and permanent eradication of these plants.

The NIS states that these measures have been implemented and are subject to ongoing management, including mowing of the reseeded grass areas within the Murragh so as to ensure that the sward length is suitable for foraging light-bellied Brent geese. The ecological buffer lands have been handed over to FCC, which has enabled the Council to take full charge of the long-term management of the ecological buffer area and bird quiet zone. These measures seek to prevent any changes in bird populations due to any reduction in available feeding habitat or disturbance. In particular the provision of the new dedicated grassland areas in quiet zone lands that have been designed to provide feeding habitat for the birds of Baldoyle Bay SPA are intended to avoid any significant impacts on feeding habitats and disturbance to birds during roosting or feeding. This approach is in accordance with the LAP and has been accepted by the Board for the previous phases of St. Marnock's Bay.

#### 12.5.7. Interconnectivity Between the Natura 2000 Sites

The Board should note that due regard has been given to the interconnectivity of the Natura 2000 sites in supporting and sustaining bird species and in particular those listed on the special conservation interests for Baldoyle SPA, Malahide Estuary SPA and Bull Island SPA. I am satisfied that there is no loss to any of the qualifying interest habitats. It is considered that the proposal would not adversely affect the integrity of the Baldoyle SPA, Malahide Estuary SPA and North Bull Island SPAs, in view of the sites' conservation objectives or impact on bird species afforded protection under the Habitat Directive or the Wildlife Acts. Consideration has also been given to noise or light pollution which may have an impact. The LAP has



assigned categorisations to areas of the LAP lands in respect of public lighting so as to ensure the integrity of bird feeding grounds are not compromised. This can be reinforced through condition. I am satisfied that there is no impact on the interconnectivity between the various SPA sites in that existing feeding and habitat areas remain unaltered and will continue to be available to the listed species.

#### 12.5.8. Issues Raised by Observers

The following points are noted in relation to matters raised in third party submissions:

- Observers comment that permission should not be granted in the absence of a long term solution for foul water management of the St. Marnock's Bay development. I note that, while the current IW application to FCC for the Portmarnock Bridge pumping station remains pending, the subject application includes works to the temporary pumping station to provide capacity for the proposed Phase 1D. The NIS clearly states that the proposed development of Phase 1D can proceed without any impacts on any European Sites occurring regardless of the status of the new IW pumping station. Having regard to the detailed information submitted in relation to the proposed temporary wastewater treatment infrastructure, to the NIS, which gives detailed consideration to issues relating to same and to the submissions on file by Irish Water and FCC, I am satisfied that the proposed wastewater treatment infrastructure will not, subject to mitigation, have any adverse effects on the integrity of designated sites. 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. In addition, I note that third parties have not submitted technical or scientific information that would cause reasonable scientific doubt that there will be any adverse effect on the integrity of designated sites in relation to wastewater infrastructure.
- Observers have raised an issue that wastewater capacity issues have not been factored into the AA carried out by the applicant. In this regard I note that Irish Water confirm that the applicant has liaised with IW and that IW issued a Statement of Design Acceptance on 23<sup>rd</sup> November 2021 and that the most recent IW submission, dated 17<sup>th</sup> January 2022, states no objection to the

development. Potential issues associated with capacity at Ringsend WWTP are addressed in section 12.5.6 above.

- I note observer concerns regarding the ongoing operation and management of the existing surface water detention pond and regional wetland. I note that the comment of FCC Water Services Department states no concerns in relation to the ongoing operation of this system, which has been installed as part of the previous St. Marnock's Bay phases in liaison with FCC.
- Observers comment that the NIS is based on inadequate bird surveys. I note that the NIS is based on available information on habitats and species in the area as well as breeding bird and habitat surveys undertaken in 2021. The NIS also benefits from the iterative analysis of previous phases of St. Marnock's Bay, which have included habitat enhancement measures as provided for under the LAP that are subject to ongoing monitoring. In addition, the NIS is supported by several other reports on file that provide information in relation to designated sites including the EIAR, Public Lighting Report, Landscape Design Rationale, Tree Planting Plan, Arboricultural Impact Assessment, Flood Risk Assessment, Water Services Report, Construction and Environmental Management Plan. I am therefore satisfied that adequate information is provided in respect of the baseline conditions to allow me to undertake an AA of the proposed development. Observers also submit that the AA of Portmarnock South LAP is based on out of date bird surveys, however, as above, the NIS is based on adequate survey information.
- Observers comment that pressures and threats to light-bellied Brent Geese are not considered in the NIS. The NIS considers this species in the context of its assessment of potential impacts on the Special Conservation Interests of the designated sites Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and North Bull Island SPA (004006), along with the other species that are listed as Special Conservation Interests of those designated sites.
- Observers submit that the site is ecologically linked to Baldoyle Bay and that the applicant proposes inadequate compensatory measures for the loss of feeding and roosting habitat, which are in breach of the Habitats Directive and Birds Directive. Section 12.5.6 above describes the ongoing and full implementation of

the Conservation Management Plan already implemented as part of the previous St. Marnock's Bay Phases 1A, 1B and 1C, in accordance with Objective GI 12 and section 5.2.1 of the Portmarnock South LAP, as detailed in NIS section 3.2. This approach has been accepted by the Board in relation to the previous phases of St. Marnock's Bay and I am satisfied that there is adequate provision of feeding and foraging habitat for the bird species listed as Special Conservation Interests of Baldoyle Bay SPA (004016), Malahide Estuary SPA (004025) and North Bull Island SPA (004006).

- Third party submissions comment that the proposed new surface water drainage features to treat run-off from the connection to Mayne Road will result in the loss of designated feeding and roosting habitat from the Ecological Buffer Zone at the southern end of the LAP lands. There are also concerns about potential surface water contamination in this area associated with contamination of run-off with hydrocarbons and other contaminants. This matter is not addressed in the NIS. I note that the outfalls to these features include hydrocarbon interceptors, and I am therefore satisfied that they will not have any adverse impacts on water quality. The location of the proposed wetland is indicated in the LAP Green Infrastructure and Habitat Management Strategy as a quiet zone for migratory birds to cater for Brent Geese and other wader species. The location of the proposed drainage ditch at Mayne Road is located within an area designated in the LAP as amenity grassland. I am satisfied that the proposed surface water features, which are limited in extent, will reduce the available habitat by a marginal amount and are not incompatible with the ex-situ use of these areas by the predominantly water-based bird species designated as Special Conservation Interests of the adjacent designated sites. In addition, the wetland/pond area is tucked into the corner of the field boundary, a location that is less attractive to foraging birds than open field areas. I also note in this regard that the overall LAP lands include a regional wetland and detention pond, which were permitted under previous phases of St. Marnock's Bay, which were subject to AA. I am therefore satisfied that the proposed surface water strategy for the road connection to Mayne Road will not have any impacts on designated sites.

## 12.6. In Combination Effects

12.6.1. NIS section 4.5 considers In-Combination effects on European Sites. The following points are noted:

- The route of the Greater Dublin Drainage (GDD) project traverses the development site. A previous application to ABP for the project in 2018 was quashed in the High Court in November 2020. The NIS states that, regardless of the duration and potential impacts of the eventual delivery of the GDD project on Baldoyle Bay SAC and SPA, the construction of the current proposed Phase 1D will be complete prior to the commencement of the GDD project. There will therefore be no potential for in-combination effects to arise.
- There is a separate LAP for the Baldoyle and Stapolin lands, immediately south of the Portmarnock South LAP area, also within the jurisdiction of FCC. The Baldoyle Stapolin LAP (2013) similarly includes required mitigation measures to deal with any potential impacts arising out of the development of housing in close proximity to Baldoyle Bay, including the development of new biodiversity zones including Mayne Marsh Conservation Area and an area known as Racecourse Regional Park, as part of an overall green infrastructure strategy to maintain habitats within Baldoyle Bay SPA and SAC at favourable conservation condition and to ensure the ecological integrity of Baldoyle Bay. Related projects in the wider area comprising the Racecourse Park Project and the Baldoyle to Portmarnock pedestrian/cycle route have been subject to AA. Two significant SHD permissions for residential development within the Baldoyle Stapolin LAP lands (ref. ABP-311016-21 and ABP-310418-21) have also been subject to AA.

12.6.2. I note that the Fingal County Development Plan 2017-2023 and the Portmarnock South LAP 2013 (as extended) were also subject to AA prior to adoption with consideration of the impact of identifying sites suitable for development in the County, including in and around Baldoyle. The NIS concludes that no other potential cumulative effects on ecological receptors are expected to arise as a result of the proposed development of Phase 1D. I am satisfied that, with the implementation of the mitigation measures outlined in the NIS, the proposed development is not likely to lead to any cumulative impacts on the integrity of the Baldoyle Bay SAC (000199)

and SPA (004016), the North Bull Island SPA (004006) or the Malahide Estuary SPA (004025), when considered in combination with other developments.

## 12.7. AA Conclusion

- 12.7.1. 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.
- 12.7.2. Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that likely significant effects on the Baldoyle Bay SAC ABP-311016-21 (000199) and SPA (004016), the North Bull Island SPA (004006) or the Malahide Estuary SPA (004025), could not be ruled out, due to hydrological linkages and to potential disturbance of species and emissions to water during construction.
- 12.7.3. 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 ABP-311016-21 (000199) and SPA (004016), the North Bull Island SPA (004006) or the Malahide Estuary SPA (004025), 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.
- 12.7.4. Having regard to the Natura Impact Statement, supporting documentation submitted with the SHD application, third party submissions, the submissions of prescribed bodies, the Chief Executive's report and interdepartmental reports, I consider that the proposed development would not result in the loss of any Annex 1 habitat or any Annex II species. The proposal is consistent with the provisions of the Portmarnock South LAP which was subject to SEA and AA. The mitigation measures proposed are such that will ensure the maintenance of the favourable conservation conditions of each of the qualifying interests and/or species. It is therefore concluded that subject to the carrying out of the proposed mitigation measures in the NIS that there would be no adverse impact on the integrity of Baldoyle SPA , Baldoyle Bay SAC, Malahide Estuary SPA, North Bull Island SPA or other Natura 2000 sites.

## 13.0 Conclusions and Recommendation

- 13.1.1. The proposed development is regarded as acceptable in principle on these zoned lands on the edge of the urban area and comprising part of the wider development of this area. The development will materially contravene Objective WW1 of the Portmarnock South LAP, however, having regard to Section 9(6)(c) of the 2016 Act, it is considered that this contravention would be justified. It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, having regard to the constraints of the Dublin Airport Outer Public Safety Zone, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design and quantum of development and would also be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.
- 13.2. Having regard to the foregoing, I recommend that the Board grant permission for the proposed development subject to such conditions and modifications to the proposed development as it specifies in its decision in accordance with section 9(4)(b) of the Act, as set out below.

## 14.0 Recommended Order

### **Planning and Development Acts 2000 to 2020**

### **Planning Authority: Fingal County Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 3<sup>rd</sup> Day of December 2021 by

Quintain Developments Ireland Limited care of Stephen Little and Associates, 26/27 Upper Pembroke Street, Dublin 2, D02 X361.

**Proposed Development:**

The proposed development on a site of 11.05 hectares will consist of 172 number residential units as follows:

- 150 number houses comprising:
  - 11 number three-bed 1.5 storey houses (House Type G)
  - 83 number three-bed two storey houses (House Types A1, A2, A3, A4, A5, A6, B1, B2, B3, C1, C2 and C3)
  - 5 number four-bed 1.5 storey houses (House Type H)
  - 51 number four-bed two storey houses (House Types D1, D2, F1, F2, F3, F4 and F5)
  
- 22 number apartment/duplex units comprising:
  - 11 number two-bed apartments (House Type J1, J2 and J3)
  - 11 number three-bed duplex units (House Type K1, K2 and K3)
  
- Private rear gardens are provided for all houses. Private patios / terraces and balconies are provided for all duplex / apartment units.
  
- Public open spaces comprising Skylark Park (circa 8,150 square meters), extension to Railway Linear Park (circa 6,900 square meters) and extension to townland boundary linear parks (circa 10,230 square meters)

- Vehicular, pedestrian and bicycle access to Station Road and to Portmarnock Railway Station to be provided via the previous Phases 1A, 1B and 1C of the overall St. Marnock's Bay development.
- New vehicular connection to Mayne Road and new priority junction at Mayne Road and associated pedestrian crossings, footpaths, public lighting, surface water infrastructure, landscaping and boundary treatment.
- Upgrade of existing temporary foul water pumping station and storage tank located to the northeast of Dún Sí (Phase 1B) residential development to increase capacity and all associated site works. This aspect of the development comprises amendments to site development works permitted under ABP-300514-17 which amounts to circa 0.32 hectares of the overall site area.
- The proposed development also includes communal open space, car parking, bicycle parking, bin stores, plant areas, utilities infrastructure, three number ESB substations and all associated and ancillary site development, infrastructural, landscaping and boundary treatment works.

## **Decision**

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

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was



required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

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

- (a) The location of the site in adjoining the established residential area of Portmarnock and adjacent to Portmarnock Railway Station, on lands with the zoning objective RA 'new residential';
- (b) The policies and objectives as set out in the Fingal County Development Plan 2017-2023; and the Portmarnock South Local Area Plan 2013 (as extended);
- (c) The provisions of Project Ireland 2040 National Planning Framework with regard to compact growth and the provision of new homes within existing settlements, in particular Objectives 27 and 33;
- (d) The provisions of the Dublin Metropolitan Area Strategic Plan, part of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031;
- (e) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (f) The provisions of Housing for All, A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021;
- (g) The provisions of 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 2019, as amended;

- (h) The provisions of 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;
- (i) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018;
- (j) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing and Planning and Local Government in December 2020;
- (k) The provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009;
- (l) The nature, scale and design of the proposed development;
- (m) The availability in the area of a wide range of educational, social community, transport and water services infrastructure;
- (n) The pattern of existing and permitted development in the area, including the adjoining previous phases of St. Marnock's Bay;
- (o) The Chief Executive's Report of Fingal County Council;
- (p) The submissions and observations received;
- (q) The report of the Planning Inspector.

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 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 serviced urban site, the information for the Appropriate Assessment Screening and Natura Impact Statement 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 the Baldoyle Bay SAC (Site Code 000199), the Baldoyle Bay SPA (Site Code 004016), the North Bull Island SPA (Site Code 004006) and the Malahide Estuary SPA (Site Code 004025), 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 and carried out an Appropriate Assessment of the implications of the proposed development for European sites, namely the Baldoyle Bay SAC (Site Code 000199), the Baldoyle Bay SPA (Site Code 004016), the North Bull Island SPA (Site Code 004006) and the Malahide Estuary SPA (Site Code 004025), in view of the 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 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 an environmental impact assessment of the proposed development, taking into account:

- (a) the location, nature, scale, and extent of the proposed development.
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the planning application.
- (c) the submissions from the Chief Executive and the prescribed bodies in the course of the application, and the submissions received from Observers.

(d) the 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.

### **Reasoned Conclusions on the Significant Effects**

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

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 where required, as follows:

- Positive impacts on population and human health due to the increase in the housing stock within the Portmarnock area.
- Biodiversity impacts, which will be mitigated by tree and hedgerow protection during construction; protection of vegetation from dust during construction; measures to protect surface water quality during construction and operation; bat mitigation measures; landscaping or replacement of trees and hedgerows; measures to avoid disturbance to animals during construction; lighting control measures and post construction monitoring, along with the mitigation measures designed to mitigate any potential impacts on the Special Conservation Interests

and Qualifying Interests of Baldoyle Bay SPA and SAC and implemented under previous phases of St. Marnock's Bay, which are now subject to ongoing monitoring and which include:

- Provision of a large area of ecological buffer / parkland, located between residential zoned lands to the west and the boundary with Coast Road to the east and with Mayne Road to the south.
  - Provision of a 'Quiet Zone' for birds, in the southern part of the Portmarnock South Local Area Plan lands.
  - Provision of an arable plot and retention of an existing small attenuation pond located between the above 'Bird Quiet Zone' and Mayne Road.
  - Clearing of bramble scrub and reseeded areas to grassland within the Murragh Spit east of the R106 Coast Road (within Baldoyle Bay SAC and SPA), undertaken in 2016 and 2017 in agreement with Fingal County Council and the National Parks and Wildlife Service, to provide additional areas of foraging habitat for bird species, in particular overwintering light-bellied Brent geese.
  - Treatment of invasive species listed on Schedule 3 of the Birds and Habitats Regulations, 2011 – 2015 specifically a small area of Japanese knotweed (*Fallopia japonica*) on the Murragh Spit and giant hogweed (*Heracleum mantegazzianum*) located within the St. Marnock's Bay Phase 1A lands.
- Water impacts, which will be mitigated by construction management measures, SuDS measures, surface water management and monitoring and wastewater treatment, including upgrade works to the St. Marnock's Bay temporary pumping station.
  - Landscape and visual impacts, which will be mitigated by construction management measures and by the retention and enhancement of existing trees and hedgerows and new landscaping and by the overall quality of the design and finish of the proposed development.
  - Traffic and transportation impacts, which will be mitigated by construction traffic management, junction upgrades at the Drumnigh Road/Station Road and Strand

Road/Coast Road/Station Road junctions, a Mobility Management Plan and by the provision of pedestrian and cycle facilities.

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.

### **Conclusions 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's 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 Objective WW1 of the Portmarnock South Local Area Plan 2013, as extended, which specifies that all required drainage infrastructure including the installation and commissioning of the Portmarnock Bridge pumping station, shall be completed and operational following the completion of the first 100 dwellings and prior to the commencement of further development. 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 Portmarnock South Local Area Plan 2013 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, as amended, and delivers on the Government's policy to increase the delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness 2016. The proposed development is therefore considered to be strategic in nature.

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

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 Portmarnock South Local Area Plan, specifically ABP-300514-17 and ABP-305617-19, which permitted developments > 100 units pending the upgrade of the Portmarnock Bridge pumping station.



## 15.0 Conditions

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

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

2. Mitigation and monitoring measures outlined in the plans and particulars, including Chapter 18 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.

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

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

4. A suitably qualified ecologist shall be appointed by the developer to oversee the site set-up and construction of the proposed development. The ecologist shall ensure the implementation of all measures contained in the Schedule of

Ecological mitigation measures. Prior to commencement of development, the name and contact details of said person shall be submitted to the planning authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the County Council to be kept on record.

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

5. 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.

**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

6. The proposed development shall be amended as follows:
  - (a) A pedestrian/cycle link as far as the bridge over the railway line at the western site boundary shall be provided within the Railway Linear Park.
  - (b) The perimeter route shall be designated as a pedestrian and bicycle connection and shall be clearly laid out as such.

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

**Reason:** In order to provide satisfactory pedestrian and cycle connections.

7. The applicant shall upgrade the following road junctions. Full details of the junction upgrades shall be submitted to the planning authority and agreed in writing and the junctions shall be upgraded prior to the commencement of development.

(a) Drumnigh Road R124/Station Road

(b) Strand Road/Coast Road/Station Road

**Reason:** In the interests of proper planning of the area.

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

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

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

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

10. Proposals for an estate / street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

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

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

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

- (a) 35 dB(A) LAeq during the period 0700 to 2300 hours, and
- (b) 30 dB(A) LAeq at any other time.

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

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

13. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

(b) Prior to the first occupation of the development, a finalised 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.

(c) 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 units over time and shall include a strategy for the community use and any car-share parking.

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

14. All roads and footpaths shown 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.

15. Bicycle parking spaces shall be provided within the site in accordance with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020). Revised details of the number, layout, and design, marking demarcation and security provisions for these spaces shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

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. Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to 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 Bicycles

18. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

19.

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

(b) 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.

(c) 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. (d) A maintenance policy to include regular operational inspection and maintenance of the SUDS infrastructure and the petrol/oil interceptors should be submitted to and agreed in writing with the planning authority prior

to occupation of proposed dwelling units and shall be implemented in accordance with that agreement.

- (d) The mitigation measures identified in the site-specific flood risk assessment, shall be implemented in full.

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

20. The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development. All development is to be carried out in compliance with Irish Water Standards codes and practices.

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

21. Prior to the commencement of development, the developer shall submit to the planning authority a report detailing an agreed safe system of work to protect adjacent railway infrastructure, for agreement in writing prior to the commencement of development. The report shall address, inter alia, the contents of the submission on file by Irish Rail dated 24<sup>th</sup> December 2021. Any works associated with the proposed development shall ensure that the integrity of the railway is maintained.

**Reason:** To protect the railway and public safety.

22. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

23. The site shall be landscaped and earthworks carried out 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. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.

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

24.

(a) Prior to commencement of development, all trees which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps,



storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

- (c) Excavations in preparation for foundations and drainage, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.
- (d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained adjacent to the site unless otherwise agreed with the planning authority.

**Reason:** To protect trees and planting during the construction period in the interest of visual amenity.

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

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

26. 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) A Construction Traffic Management Plan providing 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, cyclists and vehicles in the case of the closure of any footpath, cyclepath or public road during the course of site development works.
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of 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.

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

27. 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.

28. 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

29. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority the details any crane operations and to ensure they 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.

30. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, drawings showing all development works to be taken in charge designed to meet the standards of the Planning Authority.

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

31. 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

32. 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.

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

between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Sarah Moran  
Senior Planning Inspector

28<sup>th</sup> March 2022