



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-313814-22**

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#### **Development**

Seven-year permission for 280 residential units (128 houses, 116 apartments, and 36 duplex apartments), creche, and associated site works.

#### **Location**

Newcastle South, Newcastle, Co. Dublin.

([www.newcastlesouthplanning.com](http://www.newcastlesouthplanning.com))

#### **Planning Authority**

South Dublin County Council (SDCC)

#### **Applicant**

Cairn Homes Properties Ltd.

#### **Prescribed Bodies**

1. Inland Fisheries Ireland (IFI)
2. Dept. of Housing, Local Government and Heritage (DHLGH)
3. Irish Aviation Authority (IAA)
4. Irish Water
5. Transport Infrastructure Ireland (TII)

#### **Observers**

1. Fiona Murray

2. Frank Kerins
3. Pavement Homes Ltd.
4. Sean & Geraldine Fitzgibbon

**Date of Site Inspection**

26<sup>th</sup> May 2025

**Inspector**

Anthony Kelly

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## **1.0 Introduction**

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

## **2.0 Site Location and Description**

- 2.1. The site is located in the south western and southern areas of Newcastle in south west Co. Dublin. The site comprises two parcels. The main (proposed residential) parcel (approximately 8.4 hectares in area) is approximately 100 metres south west of St. Finian's National School and approximately 150 meters south of the Main Street through the town. There is existing development to the north and east but the areas to the west and south are largely rural in nature. The smaller (proposed creche) parcel (approximately 0.07 hectares in area) is in an urban area approximately 250 metres to the east of the main parcel, and it is bounded by Newcastle Boulevard, Lyons Avenue, and Graydon Green.
- 2.2. The main parcel is irregular in shape with a slight fall in ground levels from south to north. On inspection, extensive construction works and activity were ongoing throughout. This appears to be on foot of permissions granted on site since the subject application was received by the Board in June 2022. Duplex unit blocks in the south east area were under construction and some houses in the western and southern areas were also under construction. Extensive groundworks and structure foundations had been developed elsewhere. There was a stop/go traffic system in place at the site entrance along the local road (L6001/Athgoe Road).
- 2.3. The smaller parcel is an 'island' site with roads/streets to each side. It is flat and fenced. Development in the vicinity is primarily two-four storey residential development with some commercial units e.g. physiotherapy, barber, and a shop.
- 2.4. The site has a gross area of 8.47 hectares and a net area of 8.17 hectares<sup>1</sup>.

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<sup>1</sup> The applicant states the net site area is 7.55 hectares. Page 18 of the Planning Report and Statements of Consistency (PRSC) identifies the areas subtracted from the 8.47 hectares site to achieve a 7.55 hectares area. I agree that the 0.1 hectare road junction and 0.2 hectare 'RU' zoned land are

### 3.0 Proposed Strategic Housing Development (SHD)

3.1. The application proposes a seven-year permission for:

- 280 residential units (128 houses, 116 apartments, and 36 duplex apartments),
- amendments to permitted creche,
- public and communal open space, landscaping, public lighting, bicycle/bin stores, roads, cycleways, and ESB substations,
- vehicular access from signalised junction on Athgoe Road with upgrades to footpath and pedestrian crossing and vehicular/pedestrian/cycle link to Graydon/Newcastle Boulevard, and,
- surface water attenuation, connection to water, foul drainage infrastructure and pumping station, and all ancillary works.

3.2. The following tables set out some key aspects of the proposed development.

**Table 3.1 – Key Figures**

Site Area (Gross / Net)	8.47 hectares / 8.17 hectares
Number of Units	280 units comprising 128 houses, 116 apartments, and 36 duplex apartments
Building Heights	Houses – Two-storey Apartments – Two five-storey buildings Duplex apartments – Three three-storey blocks
Net Density/Units per Hectare (uph)	Approx. 33.1uph (gross) Approx. 34.3uph (net)
Dual Aspect (Apartments)	40 of 116 apartments (34%)
Open Space / Amenities	Approx. 1.71 hectares of public open space (approx. 1.67 hectares required) Approx 0.27 hectares of communal open space

‘undevelopable’, but I do not agree that the 0.62 hectares subtracted for the ‘Northern Boulevard’ can be reasonably subtracted as it is only one of a number of such six year road proposals identified on Map 7 of the South Dublin County Development Plan 2022-2028. Therefore, I consider the net site area is 8.17 hectares (8.47 hectares – 0.3 hectares).

	Childcare facility
Part V	28 units
Pedestrian/Cycle Infrastructure	Footpaths and cyclepaths throughout the site including permeability linkages to the west, north, and east and future provision to the south
Car and Bicycle Parking	Car – 423 spaces Bicycle – 370 spaces

**Table 3.2 – Unit Breakdown**

	Bedroom Number					
Type	1-Bed	2-Bed	3-Bed	4-Bed	5-Bed	Total
Houses	0	8	94	25	1	128 (45.7%)
Apartments	54	62	0	0	0	116 (41.4%)
Duplexes	0	18	18	0	0	36 (12.9%)
Total	54 (19.3%)	88 (31.4%)	112 (40%)	25 (8.9%)	1 (0.4%)	280 (100%)

3.3. The proposed development forms part of a wider masterplan development, as per the Site Overview Master Plan drawing (drg. no. MOLA-XX-00-DR-A-XX-0100-S0). The proposed development would link into the existing Graydon development to the east through an extension of Newcastle Boulevard. The proposed development itself has a vehicular entrance off the Athgoe Road which is proposed to be signalised. There are three character areas/neighbourhoods proposed:

- Sean Feirm is in the north western area of the main site parcel. It contains 73 houses on an area of approx. 3.4 hectares and includes a small pocket park (Towerhouse Park) and a more formal park (Sean Feirm Park).
- The Taobh Chnoic character area/neighbourhood is in the southern part of the main site parcel. It contains 91 houses and duplex units on an approx. 3.1 hectares site.

- The Burgage South character area/neighbourhood is in the eastern part of the main site parcel. It contains 116 apartments in two five storey buildings. This area is on land permeated by historic burgage plot hedgerows.
- 3.4. The proposed creche is physically distant from the main body of the proposed site and is located within the existing Graydon development.
- 3.5. Open space is located centrally within the main body of the site and also adjacent to some boundaries. Vehicular and pedestrian connectivity is also provided through the St. Finian's Way housing development adjacent to the north with the layout plan showing future connectivity links to adjacent land to the north east, which is also under the applicant's control, and to the south.
- 3.6. Part of the proposed site on the Athgoe Road is not under the applicant's ownership. It is owned by South Dublin County Council (SDCC) and a letter of consent has been submitted in relation to same. The anticipated duration of construction within the seven year permission period sought is envisaged at between 36-48 months.
- 3.7. In terms of surface water the main body of the proposed site is divided into five catchments and each catchment has a corresponding attenuation facility. Surface water runoff from the development will be attenuated to greenfield runoff rates in accordance with the Greater Dublin Strategic Drainage Study. Where possible, attenuation facilities have been designed as above ground storage in order to maximize the use of sustainable urban drainage systems (SuDS). SuDS features include open ponds, detention basins, swales, tree pits, permeable paving, and green roofs. Four catchments discharge to an existing drainage ditch and one will discharge to the existing surface water piped network on Athgoe Road.
- 3.8. The proposed foul drainage system will connect to the existing 225mm diameter foul sewer in the Graydon development. A wastewater pumping station at the north of the site is proposed to serve the majority of the subject site and it forms part of this planning application. Foul drainage will drain to the proposed pumping station by gravity before being pumped back to a stand-off manhole at the south of the site and discharging to Graydon development infrastructure. A section to the southeast will flow by gravity and discharge to the Graydon development. The creche will use the permitted Graydon infrastructure.

3.9. In addition to standard plans and particulars the planning application was accompanied by a number of supporting documents. These include, but are not limited to:

- a Planning Report and Statements of Consistency (PRSC) dated June 2022,
- a Statement of Response to An Bord Pleanála's Consultation Opinion dated June 2022,
- a Material Contravention Statement dated June 2022,
- an Environmental Impact Assessment Report (EIAR) dated June 2022 in three volumes: Volume I (Non-Technical Summary), Volume II (Main Report, and Volume III (Appendices),
- an Appropriate Assessment Screening (AA Screening) dated 11<sup>th</sup> June 2022,
- an Architectural Design Report dated June 2022,
- a Landscape Design Statement dated June 2022,
- an Infrastructure Design Report (IDR) dated June 2022,
- a Traffic and Transport Assessment (TTA) Report dated June 2022,
- a Site Specific Flood Risk Assessment (SSFRA) dated June 2022,
- a Preliminary Construction Environmental Management Plan (CEMP) dated June 2022,
- a Technical Note 210026-DBFL-XX-XX-RP-C-0005 (DMURS<sup>2</sup> Design Statement) dated June 2022, and,
- Photomontages and CGI dated June 2022.

## 4.0 Planning History

4.1. The relevant planning history of the site and vicinity can be summarised as follows:

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<sup>2</sup> Design Manual for Urban Roads and Streets



## On Site

### *Main Parcel*

- 4.2. P.A. Ref. SD23A/0136 – In January 2024, SDCC granted permission for 48 duplex apartment units in four blocks, approx. 1.74 hectares of the second phase of Taobh Chnoic public park, vehicular access from Graydon/Newcastle Boulevard, surface water attenuation measures, provision of foul drainage infrastructure, and all ancillary works (Phase 2A).

Further information was sought, the response to which included alteration of the site boundary to include a new surface water pipe to an outfall on Hazelhatch Road which resulted in the site area being increased from 3.27 hectares to 5.75 hectares. The permitted duplex apartment units (in four blocks) are located in the area where the proposed three duplex blocks are located in the south east of the current site, and the public park referred to is located immediately south of the duplex apartments, outside the site boundary subject of this SHD application.

This permission is currently under construction.

- 4.3. P.A. Ref. LRD23A/0011 / ABP Ref. ABP-319500-24 – In July 2024, following a third-party appeal of the decision of SDCC to grant permission, the Board granted permission for Phase 2B of a two-phase development on a 10.7 hectares site (which included the duplex apartments and Taobh Chnoic public open space areas permitted under SD23A/0136). The phase 2B development proposed 131 dwellings (119 houses and 12 duplex apartments), public and communal open space, new signalised junction along with upgrades to footpath and pedestrian crossing on the Athgoe Road, vehicular/pedestrian/cycle link to Graydon, SuDs, foul drainage infrastructure as well as an underground local pumping station, and all ancillary site works. The proposal also included upgrades to the surface water network along Athgoe and Hazelhatch Roads (for approx. 1.2 km)<sup>3</sup>.

The Board decision granted 124 residential units in total (118 houses and 6 duplex apartments). The footprint of the permitted houses is the same as that in this SHD application apart from the proposed duplex block which was located in the southern

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<sup>3</sup> Further information was sought for SD23A/0136 on 3<sup>rd</sup> August 2023 whereas the LRD application was not received until 20<sup>th</sup> October 2023. It appears that the further information request response under the former application was also incorporated into the latter application.

area of the site in the general area where proposed house nos. 102-111 are proposed. The area where the proposed apartment buildings are proposed in this SHD application was not included in either Phase 2 application. The permissions result in an overall Phase 2 development of 172 dwellings (118 houses and 54 duplex apartments).

This permission is currently under construction.

- 4.4. P.A. Ref. LRD24A/0011W – In December 2024, SDCC granted permission for modifications to LRD23A/0011 / ABP-319500-24 consisting of the replacement of two two-storey, four-bed semi-detached houses with two two-storey, 3-bed semi-detached houses and the replacement of two two-storey, three-bed semi-detached houses with two two-storey, four-bed houses.

This permission is under construction.

- 4.5. P.A. Ref. LRD24A/0010W<sup>4</sup> – In January 2025, SDCC granted permission for an amendment to the permitted north-eastern access point under LRD23A/0011 / ABP-319500-24 linking to St. Finian's Way to allow for pedestrian/bicycle access only, and the provision of a new vehicular point of access in the north-eastern section of the site between Phase 2 and adjacent land to the north under separate ownership.

#### *Creche Site*

- 4.6. P.A. Ref. SD22A/0459 / ABP Ref. ABP-316066-23 – In 2024, following a third-party appeal of the decision of SDCC to grant permission, the Board granted permission for construction of a 778sqm two-storey creche/childcare facility. This application will replace and supersede the permitted 518sqm creche permitted under ABP-305343-19.

#### St. Finian's Way (adjacent to north)

- 4.7. P.A. Ref. SD18A/0363 / ABP Ref. ABP-304908-18 – In 2020, following a third-party appeal of a decision by SDCC to grant permission, the Board granted permission for a development of 22 houses. Permission was granted by SDCC under SD22A/0045 for a six house extension. This development has been constructed.

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<sup>4</sup> The numbering convention used is confusing. LRD24A/0011W was received by SDCC on 18<sup>th</sup> October 2024 and the decision to grant was made on 4<sup>th</sup> December 2024. However, LRD24A/0010W was received by SDCC on 25<sup>th</sup> November 2024 and the decision to grant was made on 29<sup>th</sup> January 2025 (italics added).

4.8. The EIA Portal reference number for this planning application is 2022107.

## 5.0 Section 5 Pre-Application Consultation

### 5.1. Pre-Application Consultation (ABP-311861-21)

5.1.1. A section 5 pre-application consultation took place on 11<sup>th</sup> February 2022 in respect of a development comprising construction of 283 residential units (123 houses, 36 duplex apartments, and 124 apartments), a creche, and associated site works. Representatives of the prospective applicant, SDCC, and An Bord Pleanála were in attendance. The main matters discussed at the meeting were the development strategy and Local Area Plan (LAP) framework, phasing, design and layout, material contravention, roads and transportation, and drainage.

5.1.2. In the Notice of Pre-Application Consultation Opinion dated 2<sup>nd</sup> March 2022, the Board stated that it was of the opinion that the documents submitted required further consideration and amendment to constitute a reasonable basis for an application for SHD with regard to the following issue.

1. Further consideration and amendment of the documents having regard to the specific objective of the South Dublin County Development Plan 2016-2022 to *Provide for Traveller Accommodation* on lands at Newcastle South.

5.1.3. The Opinion also stated that the following specific information should be submitted with any application (summarised):

1. A statement demonstrating consistency with the Development Plan settlement strategy, including justification of the proposed density.
2. How the development will facilitate the sequential development of the settlement and ensure that the proposal would not compromise the development of Village Core lands or where there is potential for impact, justification of same.
3. Site layout plans illustrating alignment with the roads, movement/connections, open space and other framework elements that apply to these lands.
4. How each neighbourhood addresses the requirement of the LAP to create its own distinct identity.

5. A design rationale, including a response to the comments of the planning authority, in relation to the proposed apartment blocks and address dual aspect requirements.
  6. A detailed phasing plan.
  7. A mobility management plan, a Quality Audit in accordance with DMURS, proposals to address pedestrian and cycle deficiencies, bicycle parking, and a report addressing matters raised in the SDCC Roads Department report.
  8. An Archaeological Impact Assessment.
  9. A plan identifying the areas intended to be taken in charge.
  10. A report addressing the matters raised in the SDCC Water Services report and a SSFRA.
  11. A comprehensive daylight and sunlight assessment.
  12. An Environmental Report/EIAR (as appropriate) to include the results of all surveys undertaken.
  13. Detailed landscaping proposals informed by an Arboricultural Impact Assessment.
  14. The application should demonstrate that the design and layout provide for suitable passive surveillance of open space areas and pedestrian routes.
  15. Relevant information referred to in the Planning & Development Regulations, 2001 (as amended), unless it is proposed to submit an EIAR.
- 5.1.4. The authorities that should be notified in the event of making an application that were advised to the applicant were the Minister for Housing, Local Government and Heritage, The Heritage Council, An Taisce, Irish Water, National Transport Authority (NTA), Transport Infrastructure Ireland (TII), and Inland Fisheries Ireland (IFI).

## 5.2. **Applicant's Response to Pre-Application Consultation Opinion**

- 5.2.1. Subsequent to the consultation under section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board's Pre-Application Consultation Opinion under ABP-311861-21 was that the documentation would require further consideration and amendment to constitute a reasonable basis for a SHD application. Therefore, a statement in accordance with article 297(3) of the

Planning and Development (Strategic Housing Development) Regulations 2017, is required.

- 5.2.2. The applicant has submitted a Statement of Response to An Bord Pleanála's Consultation Opinion which sets out how the applicant has responded to each of the issues raised by the Board.

## **6.0 Relevant Planning Policy**

### **6.1. Project Ireland 2040 National Planning Framework First Revision (2025) (NPF)**

- 6.1.1. The NPF is the long-term 20-year strategy for strategic planning and sustainable development of Ireland's urban and rural areas to 2040, with the core objectives of securing balanced regional development and a sustainable 'compact growth' approach to the form and pattern of future development. It is focused on delivering 10 National Strategic Outcomes,

- 6.1.2. Relevant National Policy Objectives (NPOs) include:

NPO 11 – Planned growth at a settlement level shall be determined at development plan-making stage and addressed within the objectives of the plan. The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the Planning and Development Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment.

NPO 12 – 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 20 – 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 22 – In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.

NPO 43 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

## **6.2. Housing for All – A New Housing Plan for Ireland to 2030 (2021)**

- 6.2.1. This is the government's housing plan to 2030. It aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs.

## **6.3. Climate Action Plan (CAP) 2025**

- 6.3.1. CAP 2025 is the third statutory annual update to Ireland's Climate Action Plan under the Climate Action and Low Carbon Development (Amendment) Act 2021. It lays out a roadmap of actions which will ultimately lead Ireland to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022. It should be read in conjunction with CAP 2024.

## **6.4. Ireland's 4th National Biodiversity Action Plan 2023-2030**

- 6.4.1. This aims to deliver the transformative changes required to the ways in which we value and protect nature. It strives for a 'whole of government, whole of society' approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to 'act for nature'.

## **6.5. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)**

- 6.5.1. These Guidelines were introduced after the SHD application was received by the Board and after the South Dublin County Development Plan (SDCDP) 2022-2028 took effect.
- 6.5.2. The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. There is a renewed focus in the Guidelines on, inter alia, the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.
- 6.5.3. Newcastle is located within the Dublin Metropolitan Area Strategic Plan boundary as per the Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES). Having regard to the nature and location of the subject site it can be considered an urban extension area of a metropolitan town with a population greater than 1,500 i.e. 'urban extension refers to greenfield lands at the edge of the existing built-up footprint that are zoned for residential or mixed-use (including residential) development. It is a policy and objective of these Guidelines that residential densities in the range 35 dph to 50 dph (net) shall generally be applied at suburban and edge locations of Metropolitan Towns, and that densities of up to 100 dph (net) shall be open for consideration at 'accessible' suburban / urban extension locations ...' (Table 3.3 - Areas and Density Ranges – Metropolitan Towns and Villages).
- 6.5.4. I further address the issue of density in paragraphs 11.4-20-11.4.24.

## **6.6. Sustainable Urban Housing: Design Standards for New Apartments (July 2023)**

- 6.6.1. The overall purpose of these Guidelines is to strike an effective regulatory balance in setting out planning guidance to achieve both high quality apartment development and a significantly increased overall level of apartment output. They apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease.

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

- 6.7.1. These Guidelines are intended to set out national planning policy guidelines. Reflecting the NPF strategic outcomes in relation to compact urban growth, there is significant scope to accommodate anticipated population growth and development needs by building up and consolidating the development of our existing urban areas.

**6.8. Childcare Facilities Guidelines for Planning Authorities (2001)**

- 6.8.1. These Guidelines provide a framework to guide local authorities in preparing development plans and assessing applications for planning permission and developers and childcare providers in formulating development proposals. They are intended to ensure a consistency of approach throughout the country to the treatment of applications for planning permission for childcare facilities.

**6.9. Design Manual for Urban Roads and Streets (DMURS) (2019)**

- 6.9.1. The manual seeks to address street design within urban areas by setting out an integrated design approach. It is an aim of the Manual to put well designed streets at the heart of sustainable communities. Street design must be influenced by the type of place in which the street is located and balance the needs of all users.

**6.10. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)**

- 6.10.1. The RSES provides for the development of nine counties / twelve local authority areas, including SDCC. It is a strategic plan which identifies regional assets, opportunities, and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. It provides a framework for investment to better manage spatial planning and economic development throughout the region.

**6.11. South Dublin County Development Plan (SDCDP) 2022-2028**

- 6.11.1. The CDP 2022-2028 was made on 22<sup>nd</sup> June 2022 and came into effect on 3<sup>rd</sup> August 2022. This SHD application was received by the Board on 16<sup>th</sup> June 2022. Therefore,



the application was made under the 2016-2022 CDP but it is being assessed under the 2022-2028 Plan.

6.11.2. Map 7 of the Plan identifies a number of relevant issues relating to the site, including:

- The vast majority of the site is in an area zoned 'Objective RES-N' which is 'To provide for new residential communities in accordance with approved area plans'.
- 0.2 hectares in the west/south is in an area zoned 'Objective RU – To protect and improve rural amenity and to provide for the development of agriculture'.
- Much of the main body of the site is within an Architectural Conservation Area (ACA)<sup>5</sup>.
- There are 6 Year Road Proposal objectives throughout the site area<sup>6</sup>.
- There is a specific objective 'To Provide for Traveller Accommodation (indicative sites)' in the south eastern part of the main body of the site.
- The main body of the site is within the Sites and Monuments Record Zone of Notification which encompasses much of the town.

6.11.3. Specific Local Objective (SLO) CS9 SLO3 applies in the main body of the site. This is,

'A sequentially phased programme to be submitted alongside any planning application on the subject lands which provides for the delivery of the following in tandem with development or as described 1) No more than 200 units to be permitted before the commencement of the remaining lands of c. 1.4ha to provide for the full Taobh Chnoic Park to the south 2) Urban Park / Square c. 1ha in size (Burgage South Park) to the satisfaction of the planning authority, 3) East-West Link Street, 4) Sean Feirm Park c. 0.2ha in size, 5) a portion of Tower House Park c. 0.1ha. All applications shall demonstrate to the satisfaction of the Planning Authority how they are supporting the delivery of North South Street connections to the Main Street.

With regards delivery of a new primary school at Taobh Chnoic, the timing of this will be subject to educational needs in consultation with the Department of Education. Prior to completion of 200 units confirmation to be provided from the

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<sup>5</sup> The ACA is described in sub-section 3.5.3 of the Plan.

<sup>6</sup> A 'Note' on the Zoning Map (Map 7) states that the lines of the transport proposals 'are diagrammatic only and are subject to change during the detailed design process'.

Department of Education on the transfer of lands to provide for the school, subject to their confirmation of need’.

6.11.4. CS9 SLO4 states,

‘To commit to only facilitate the delivery of Phase 2 residential lands once identified infrastructure comprising of the Urban Park / Square c. 1ha in size, the additional 1.4ha for Taobh Chnoic Park and the East / West Link Street required within Phase 1 have been delivered to the satisfaction of the Planning Authority’.

6.11.5. Newcastle is identified as a Self-Sustaining Growth Town in Table 9 (Capacity of Undeveloped Lands within South Dublin). There is 17.36 hectares of residential zoned land in the town, the vast majority, 15.94 hectares, greenfield. This can accommodate 557 greenfield units and 50 brownfield units. Table 11 (Core Strategy Table 2022-2028) indicates an allocation of 398 housing units between 2022 and 2028 with a 2028 population of 4,187. The density figures set out in Table 11 provide for an average density of 30-35uph for Newcastle.

6.11.6. Newcastle is described in sub-section 2.7.2. Inter alia, it states ‘The overarching principle for the town is to improve the social and physical services to provide for the growing population. A phased sequential approach to development from the village core to the north and south recognises the ongoing construction activity and the delivery of key infrastructure identified in the Newcastle Local Area Plan<sup>7</sup>’. A policy and a number of objectives are also set out in this sub-section.

6.11.7. Policy SM3 Objective 12 is to work with the NTA to secure the expansion of the bus network to serve new development and regeneration areas within the county area, including Newcastle, amongst others.

6.11.8. The Aviation Safeguarding and Public Safety Zones Technical Guidance Map shows the site is in a location in which development up to 30 metres above ground is unlikely to have significance in relation to aviation.

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<sup>7</sup> This refers to the Newcastle Local Area Plan (LAP) 2012 which was extended in 2017 until 9<sup>th</sup> December 2022.

## **6.12. Natural Heritage Designations**

- 6.12.1. The nearest designated area of natural heritage is Grand Canal proposed Natural Heritage Area (pNHA) (site code 002104) approx. 2.1km to the north west. The nearest European site is Rye Water Valley / Carton Special Area of Conservation (SAC) (site code 001398) approx. 7.1km to the north.

## **7.0 Applicant's Statement of Consistency and Material Contravention Statement**

### **7.1. Statement of Consistency**

- 7.1.1. The applicant submitted a Planning Report and Statement of Consistency (PRSC) as per section 8 (1)(a)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016. Sections 4-8 of the document set out the consistency of the proposed development with national and regional planning policy, section 28 Guidelines, the Draft SDCDP 2022-2028<sup>8</sup>, the SDCDP 2016-2022<sup>9</sup>, and the Newcastle LAP 2012 (as extended).

### **7.2. Material Contravention Statement**

- 7.2.1. The applicant has submitted a Material Contravention Statement which addresses the Draft SDCDP 2022-2028, the SDCDP 2016-2022, and the 2012 LAP (as extended to 2022). As the latter two Plans have expired, commentary on the Draft 2022-2028 Plan is the commentary of current relevance. The applicant identifies the following as potentially materially contravening the Draft SDCDP 2022-2028:
- Core Strategy/Phasing and Non-Compliance with LAP – CS3 Objective 6, CS9 Objective 1, CS9 Objective 4, CS9 SLO3, and CS9 SLO4
  - Archaeology – NCBH 13 Objective 2, NCBH 13 Objective 3

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<sup>8</sup> The document's Table of Contents excludes this, but it comprises Section 6.

<sup>9</sup> The SHD application was received by the Board on 16<sup>th</sup> June 2022. The CDP 2022-2028 was made on 22<sup>nd</sup> June 2022 and came into effect on 3<sup>rd</sup> August 2022.

- 7.2.2. The seven objectives identified in the previous paragraph are all contained in the adopted Plan, and they retain the same reference numbers. The CS3 and NCBH objectives are general objectives whereas the CS9 objectives are specific to Newcastle. These are as follows under the headings of Core Strategy/Phasing and Non-Compliance with LAP, and Archaeology.

Core Strategy/Phasing and Non-Compliance with LAP

- 7.2.3. *CS3 Objective 6* – To ensure the phased development of new housing areas in tandem with the delivery of physical and social infrastructure provision as identified within Local Area Plans or as informed by assessments carried out by the Planning Authority.
- 7.2.4. *CS9 Objective 1* – To ensure that development proposals provide for infrastructure including community buildings, sports pitches and service provision in line with population growth as set out in the Newcastle LAP (2012 extended to December 2022) or any succeeding plan.
- 7.2.5. *CS9 Objective 4* – To facilitate and commit to the delivery of new residential development in a coordinated manner, ensuring alignment with investment infrastructure and supporting amenities and services. Such measures shall be delivered through appropriate phasing in line with CS9 SLO1, SLO2, SLO3 and SLO4.
- 7.2.6. *CS9 SLO3* – A sequentially phased programme to be submitted alongside any planning application on the subject lands which provides for the delivery of the following in tandem with development or as described 1) No more than 200 units to be permitted before the commencement of the remaining lands of c. 1.4ha to provide for the full Taobh Chnoic Park to the south 2) Urban Park / Square c. 1ha in size (Burgage South Park) to the satisfaction of the planning authority, 3) East-West Link Street, 4) Sean Feirm Park c. 0.2ha in size, 5) a portion of Tower House Park c. 0.1ha. All applications shall demonstrate to the satisfaction of the Planning Authority how they are supporting the delivery of North South Street connections to the Main Street.

With regards delivery of a new primary school at Taobh Chnoic, the timing of this will be subject to educational needs in consultation with the Department of Education. Prior to completion of 200 units confirmation to be provided from the Department of Education on the transfer of lands to provide for the school, subject to their confirmation of need.

- 7.2.7. CS9 SLO4 – To commit to only facilitate the delivery of Phase 2 residential lands once identified infrastructure comprising of the Urban Park / Square c. 1ha in size, the additional 1.4ha for Taobh Chnoic Park and the East / West Link Street required within Phase 1 have been delivered to the satisfaction of the Planning Authority.
- 7.2.8. In relation to the first two objectives (CS3 and CS9 Objective 1), the scheme is not compliant with the density and height policies as well as the road layout in the LAP, and these are potential material contraventions. In relation to the latter three objectives, CS9 Objective 4 refers to SLOs 3 and 4. There is a potential material contravention of two elements of the phasing in SLO3 in relation to Taobh Chnoic Park and Burgage South Park and these are also referenced in SLO4.
- 7.2.9. A justification for material contravention of the Draft SDCDP 2022-2028 is set out in sub-section 2.2 of the applicant's Material Contravention Statement. Reference is made to, inter alia, the proposed development being of national importance, strategic housing policy documents, some objectives being not deliverable, the NPF, section 28 Guidelines, and DMURS.

#### Archaeology

- 7.2.10. NCBH 13 Objective 2 – To ensure that development is designed to avoid impacting on archaeological heritage including previously unknown sites, features and objects.
- 7.2.11. NCBH 13 Objective 3 – To protect and enhance sites listed in the Record of Monuments and Places and ensure that development in the vicinity of a Recorded Monument or Area of Archaeological Potential does not detract from the setting of the site, monument, feature or object and is sited and designed appropriately.
- 7.2.12. The archaeological investigations revealed a number of features of probable archaeological origin which will be subject to archaeological preservation by record prior to the commencement of construction. The proposed development materially contravenes NCBH 13 Objective 2 in this regard. Careful consideration has been given to the location of the Tower House. The proposed entrance has been moved further to the north compared to the indicative location in the LAP/Development Plan and additional open space is provided. Notwithstanding, significant residual indirect negative effect on the setting of the Tower House is predicted which could be said to materially contravene NCBH 13 Objective 3.

- 7.2.13. Justification is set out in sub-section 2.4 which again references the national importance of the proposed development, and development is also made to, inter alia, Framework and Principles Protection of the Archaeological Heritage (1999), and the Architectural Heritage Protection Guidelines for Planning Authorities (2011).
- 7.2.14. These potential material contravention issues are set out in sub-section 11.3 of this report. As set out in paragraph 7.2.1, the Material Contravention Statement also addresses the SDCDP 2016-2022 and the 2012 LAP (as extended to 2022). However, as these have expired, they are no longer relevant in terms of potential material contravention given that it is the Plan(s) in place at the time a decision is made that is the relevant Plan(s).

## **8.0 Third Party Submissions**

- 8.1. Four submissions were received from local residents and local landowners and include additional documentation e.g. land registry detail and historical correspondence with SDCC. Each submission relates to a specific issue, summarised as follows.

### Policy COS4 and COS4 Objective 14 of the SDCDP 2022-2028 (Sean & Geraldine Fitzgibbon)

- There are no proposals to comply with Policy COS 4 (ensure that all communities are supported by a range of sporting facilities) or Objective 14 (provide a sports and recreational amenity in Newcastle) on site.
- To provide the required amenities set out in Objective 14 will require major changes to the site layout and public notices and the Board has no option but to refuse permission.

### Surface water (Frank Kerins)

- Concern expressed about surface water commentary in the IDR which does not mention that drainage ditches and a fresh water supply discharge to an open ditch on the south side of Main St. This eventually discharges into an ornamental pond to the rear of The Old Glebe via private drains. Overflow from the pond discharges to ditches to the north and eventually to the Liffey. To divert fresh water through an attenuation tank is wholly inappropriate.

- The SSFRA does not take into account the true position of the surface water network/water/drainage network within The Old Glebe.
- Previous drainage works carried out by SDCC in 2006 at The Old Glebe were acknowledged by the planning authority to be an effective short-term measure only. Surface water discharge should be connected to a fit for purpose drainage system. There is no permission for surface water from the development to be discharged via private surface water drains.
- The drainage layout on the north side of Main St. will not be able to cope with winter rainfall and stormwater from new residential developments.
- The proposed development is premature until the Surface Water Drainage Study for Newcastle, Rathcoole and Saggart is completed.
- The ornamental pond is a thriving aquatic environment. It is critically important that it be protected from the effects of construction works.
- Raw sewerage has previously found its way into the stormwater system/pond<sup>10</sup>. No new connections should be allowed to the stormwater sewer until a new system has been provided for undeveloped zoned land in the western area of the village.
- Similar concern in relation to discharge of surface water to the stormwater system was expressed by the observer in the appeal of St. Finian's Way which resulted in stormwater being rerouted to a different development under construction by that applicant on the north side of Main St. to the east. Surface water should connect to this alternative route. A submission was made on the application by Cairn that foul and surface water links be facilitated but this was not conditioned by the Board. It does not appear the feasibility of connecting to the alternative route was considered.
- The IDR does not specifically demonstrate compliance with relevant SDCCDP 2022-2028 surface water objectives and does not take a number of factors into account.

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<sup>10</sup> The two tables on page 9 of the submission have mixed up the results set out in the Water Lab test results attached to the submission i.e. the table on page 9 showing the results of sample L3538 are actually the results from L3539 as per The Water Lab report and vice versa.

### Land ownership (Fiona Murray and Pavement Homes Ltd.)

- Fiona Murray owns land adjacent to the south/south west of the site and previously owned the site the subject of the application. The Newcastle Development Plan 2000 showed a road/by-pass would be constructed basically along the separating line between both landholdings. The agreement between Fiona Murray and the purchaser required the purchaser to provide access and services to the lands retained by Fiona Murray and for physical boundaries to be erected between the two properties. If the road/by-pass proposal was abandoned alternative arrangements were to be made by and at the purchaser's expense to access and service the retained lands from the public road. The purchaser subsequently sold the site to the current applicant and these terms and conditions remain embodied in the folio. The observer acknowledges the zoning and is supportive of the development in principle, however the legal agreement does not appear to have been referred to or complied with raising the issue of the validity of sufficient title to carry out the development. A positive decision of the Board must reflect the legal agreement.
- Pavement Homes Ltd. owns land to the north (St. Finian's Way) which has not yet been taken in charge. The site layout connects into St. Finian's Way which would effectively turn it from a cul-de-sac into a through road and negatively affect house values. The applicant has not approached the landowner in relation to the proposed connectivity to private land. While a legal rather than planning matter the successful layout of a proposed scheme relies on such access for DMURS and it should not be taken as a given that such access will be provided.

## **9.0 Planning Authority Submission**

The Chief Executive's Report dated 11<sup>th</sup> August 2022<sup>11</sup> in accordance with the requirements of section 8 (5)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 includes a summary of pre-application consultations, a summary of the development context, a summary of internal and external

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<sup>11</sup> As the SDCDP 2022-2028 came into effect on 3rd August 2022, the Chief Executive's Report was prepared under the Plan currently in effect.



consultations and the views of elected representatives, third party observations, the relevant policy and guidelines, an assessment of the proposed development, and a recommendation to refuse permission for two reasons. The first reason states that the proposed development would materially contravene policies and objectives of the SDCDP 2022-2028 and Newcastle LAP in relation to phasing and delivery of supporting infrastructure and facilities and the second reason for refusal states that the five-storeys height and the scale of the apartment blocks would be contrary to the provisions of the SDCDP 2022-2028, the LAP, and the Building Height Guidelines (2018). Appendices comprise recommended conditions in the event that the Board decides to grant permission, a planning history, and internal reports.

## **9.1. Summary of the Views of the Elected Members**

9.1.1. The proposed development was presented at the Clondalkin Area Committee meeting on 12<sup>th</sup> July 2022. Summarised points raised by councillors are:

- there is a 66% increase in units but only a 50% increase in childcare floorspace,
- agreement with Board concerns raised in the Pre-Application Consultation Opinion,
- serious concern in relation to the growth of Newcastle,
- no peak time bus services to have appropriate growth and sustainable modal split,
- it is a car dependant development, and,
- no faith in the Board to be independent and to make independent decisions.

## **9.2. Summary of the Internal Reports**

9.2.1. Reports from the Roads Department, Public Realm Section, Water Services Department, and Housing Department were submitted as appendices to the Chief Executive's Report, and these can be summarised as follows:

9.2.2. Roads Department – A detailed response was received. Commentary included:

- links to the north through St. Finian's Way must be completed as must east-west links. No ransom strip should exist at future links to the south.
- a mobility management plan should be developed six months after completion.

- it is not clear if the applicant has taken measures to address issues raised in the Quality Audit.
- though the signalised junction is satisfactory issues for cyclists must be addressed.
- bicycle parking provision is satisfactory.
- the submission is generally satisfactory in terms of the response to other matters raised by Roads at the pre-application stage although it is unclear if items raised in the Stage 1 Road Safety Audit have been addressed/mitigated and a detailed Construction and Demolition Waste Management Plan should be submitted prior to commencement.
- The layout plan indicating areas to be taken in charge is satisfactory.
- 10 observations/recommended conditions have been set out.

9.2.3. Public Realm Section – A refusal is recommended because: the street design is not DMURS compliant as there are lengths of street with no trees, the SuDS proposal is not acceptable including that attenuation tanks are proposed beneath public open space, there are areas deficient in street trees and no SuDS tree pit proposals, there is no arboricultural impact plan, landscape proposals lack general details, lack of usable and functional open space, planting in areas to be taken in charge should be to standard, and unsuitable boundary treatment to open spaces.

9.2.4. Policies, objectives etc. of the SDCCP 2016-2022<sup>12</sup> and the Newcastle LAP 2012 (as extended) are set out.

9.2.5. Commentary is set out under sub-headings of landscape proposals, DMURS and street trees, arboricultural impact, SuDS and green infrastructure, attenuation and public open space, planting proposals, and play provision. It is stated that the application was assessed in accordance with the policies and objectives of the SDCCP 2016-2022 and refusal is recommended for the reasons outlined above.

9.2.6. Should permission be granted recommended conditions are set out under a number of sub-headings.

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<sup>12</sup> This Plan had been replaced by the 2022-2028 Plan at the time the report was prepared. It is dated 10<sup>th</sup> August 2022.

9.2.7. Water Services Department – In relation to surface water there is no objection subject to two conditions. In relation to flood risk there is no objection subject to three conditions.

9.2.8. Housing Department – A Part V condition should be attached to any grant of permission. The Part V proposal is unclear.

### 9.3. **Summary of the Chief Executive's Report Planning Assessment**

9.3.1. The assessment of the proposed development as set out in the Chief Executive's Report can be summarised as follows under the headings used in the report (not all headings are summarised). The assessment was made against the SDCCP 2022-2028.

#### *Principle of development*

9.3.2. No concern has been expressed about the principle of development.

#### *Phasing*

9.3.3. There are phasing areas of concern in relation to CS9 SLOs 3 and 4 of the SDCCP 2022-2028, in particular Taobh Chnoic Park, Burgage South Park, and North South street connections to Main Street. The LAP is referenced. The planning authority cannot support the delivery of an additional 280 units in the absence of infrastructure planned in the phasing strategy and it is considered that it would be a material contravention of the SDCCP 2022-2028 and the Newcastle LAP 2012 (as extended).

#### *Material contravention statement*

9.3.4. The planning authority agrees that the proposed development materially contravenes the SDCCP 2022-2028 and the LAP 2012 (as extended) in relation to phasing and delivery of supporting infrastructure and facilities and it cannot be supported. It does not consider a material contravention of the archaeology objectives arises.

#### *Density and building height*

9.3.5. There are concerns with the density proposed. In relation to building height, the five storey apartment buildings are a significant concern and a material contravention of the LAP. The proposed apartment blocks do not respond to its context and is a wholly different character to that on neighbouring sites.

#### *Development mix*

- 9.3.6. Though the development does not comply with the type of residential units envisaged in the LAP, given the layout no objection is raised. The proposal to develop a creche is welcome.

#### *Visual impact, design and layout*

- 9.3.7. The distinctiveness of each neighbourhood has not been achieved as it largely relies on different forms of housing i.e. apartments in Burgage South, largely duplexes in Taobh Chnoic, and houses in Sean Feirm. All house types would have similar materials and character.

#### *Design of units*

- 9.3.8. The form and design of the apartment buildings are of concern given their visual length and lack of variation in form and design. If permission is granted a full redesign, realignment and incorporation of context in which they are located would be required. The side elevations of the duplex blocks are weak. The dual frontage design of houses is welcomed.

#### *Visual impact*

- 9.3.9. More appropriate vernacular styles and treatments should be used. Apartment buildings are out of character.

#### *Overall layout*

- 9.3.10. A revised road network design is required to provide for both the creation of streets and to slow traffic movement. Houses facing onto streets is welcomed and should be further increased. A long street of car parking is not visually acceptable for the apartments.

#### *Standard of accommodation*

- 9.3.11. For the apartments the internal corridors would be overly long and the ground floor floor to ceiling heights would be approximately 2.7 metres. Only 34% of the apartments are dual aspect and the application is unacceptable in this regard. Sufficient communal open space is being provided though there are some concerns over its usability given it forms the circulation space around the apartment blocks. Open space provision is considered to comply with the required standard and percentage though the planning

authority would have concerns in relation to the contribution of some of the areas to public open space provision.

*Archaeology, architectural conservation and ecology*

9.3.12. Burgage plots and hedgerows are identified as being of significance in the LAP. Parts of existing hedgerows would be removed to make way for roads. This should be minimised as much as possible with bat-hops provided.

9.3.13. The provision of a park on the site adjacent to the closest protected structure (Record of Protected Structures 241 - (castle (ruin))) is welcomed. Comments of the Architectural Conservation Officer at pre-application consultation stage are provided in relation to the historic village core and the ACA.

9.3.14. Proposed lighting is a concern in relation to ecology. Bat movement (eco-hop)/dark corridors should be incorporated for the bat population. Lighting and landscaping should be integrated. Biodiversity measures recommended in the EIAR should be implemented in full.

*Green infrastructure*

9.3.15. Concerns expressed by the Public Realm Section are set out (as per paragraph 9.2.3).

*Drainage and services*

9.3.16. The planning authority is extremely concerned that the applicant has not addressed downstream flooding in the SuDS proposal. Undergrounding of attenuation tanks is not acceptable and should only be considered as a last resort. The proposed development should be designed around SuDS and water drainage and not the other way. Above ground SuDS is welcomed and the detailed design of these should be agreed by condition. The detail and landscaping for the proposed pumping station in the north east of the site should be agreed by condition.

*Environmental health*

9.3.17. Standard conditions relating to noise, air quality, and bin storage should be included in the event of a grant.

*Aviation safety*

9.3.18. In the event of a grant the points outlined in the IAA submission should be conditioned.

*Regulation of commercial institutional investment in housing*

9.3.19. A condition concerning the duplexes and houses would be required.

*Screening for appropriate assessment (AA)*

9.3.20. The Board is the competent authority and will screen for AA.

*Screening for environmental impact assessment (EIA)*

9.3.21. An EIAR has been provided.

*Conclusion*

9.3.22. The planning authority is supportive of residential development on these lands. That being said, 280 additional units in the absence of infrastructure planned for in the phasing strategy is contrary to the core strategy and this needs to be addressed. Further, there are specific concerns in relation to the design and density of the proposed apartments which is inappropriate, and the five storey heights are not supported by the SDCC Building Height and Density Guide. There is also serious concern about the dual aspect provision.

*Recommendation*

9.3.23. The planning authority recommends refusal for two reasons. The first reason is that the proposed development would materially contravene policies and objectives of the SDCCP 2022-2028 and Newcastle LAP in relation to phasing and delivery of supporting infrastructure and facilities and the second reason for refusal states that the five-storey height and the scale of the apartment buildings would be contrary to the provisions of the SDCCP 2022-2028, the LAP, and the Building Height Guidelines (2018). I address both of these reasons for refusal in sub-section 11.4 of this report.

9.3.24. Appendix 1 contains recommended conditions to be attached should the Board decide to grant permission.

## **10.0 Prescribed Bodies**

10.1. The Board's Pre-Application Consultation Opinion stated that the Minister for Housing, Local Government and Heritage, The Heritage Council, An Taisce, Irish Water, NTA, TII, and IFI should be notified in the event of the making of an application.

Documentation indicating that this has been complied with was submitted with the application. Submissions have been received from the following, as summarised below.

- 10.2. **Inland Fisheries Ireland (IFI)** – Indirect hydraulic connectivity to the Griffeen River via a network of drainage streams is noted. The current Water Framework Directive (WFD) status for the Griffeen is moderate<sup>13</sup>. Proposed SuDS is welcomed. Concerns remain about the in-combination effect with other developments in terms of surface water discharge and the risk posed to the aquatic environment. A number of recommendations are set out including that EIAR mitigation measures are incorporated into a final CEMP, that a suitably qualified person ensures the implementation of environmental mitigation measures, and that there is an operational phase service maintenance contract requirement for drainage and attenuation infrastructure.
- 10.3. **Dept. of Housing, Local Government and Heritage (DHLGH)** – Observations are made under the sub-headings of Archaeology and Nature Conservation.
- 10.4. In relation to archaeology, the development location within a zone of notification for archaeological monuments is noted as is the archaeological testing that has been carried out on site and the provisions of the EIAR. It is recommended that an archaeological condition relating to excavation, monitoring, and an exclusion buffer zone around the ‘castle – tower house’, be carried out as a condition of planning.
- 10.5. In relation to nature conservation, the Department welcomes that landscaping incorporates historic hedgerows. Commentary is provided in relation to bats. Two recommended conditions relate to the timing of vegetation clearance and that a final lighting scheme is approved by a bat specialist.
- 10.6. **Irish Aviation Authority (IAA)** – The applicant should be requested to engage with the Dept. of Defence to determine whether the development or associated construction methodology would potentially negatively impact aircraft operations at Casement. Should permission be granted a condition should be attached requiring the

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<sup>13</sup> The current (2016-2021) WFD status for the Griffeen is poor, as per the publicly available catchments.ie website accessed on 19<sup>th</sup> June 2025 and as set out in section 14.0 of this report. The previous status was moderate which may be what IFI were referring to at the time the observation was written on 13<sup>th</sup> September 2022.

applicant to provide at least 30 days notification to the Dept. with regard to use of cranes.

- 10.7. **Irish Water** – In relation to water, a connection is feasible without infrastructure upgrade. An approx. 300 metres network extension will be required, to be funded by the applicant. In relation to wastewater, upgrades are required at the wastewater pumping station and immediate downstream network, which the applicant will be required to fund. Connection can be facilitated in the interim with the installation of a pumping station which is to discharge to the existing development to the east. The applicant has received a Statement of Design Acceptance for the infrastructure and the Board is requested to attach conditions to any grant<sup>14</sup>.
- 10.8. **Transport Infrastructure Ireland (TII)** – No observations to make.

## 11.0 Planning Assessment

In terms of assessing this SHD planning application there are four separate elements: a planning assessment, an environmental impact assessment (EIA), an appropriate assessment (AA), and a water framework directive (WFD) assessment. This planning assessment section addresses issues that are not more appropriately addressed in the EIA, and it should be read in conjunction with the EIA, AA, and WFD sections.

Having examined the application details and all other documentation on file, including the SDCC Chief Executive's Report dated 11<sup>th</sup> August 2022, the third party submissions, the observations from the prescribed bodies, and having inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issues in this application are as follows:

- Current Activity on Site
- Zoning and Principle of Development
- Potential Material Contravention – Phasing and Archaeology
- Planning Authority Recommended Reasons for Refusal

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<sup>14</sup> I accessed Uisce Éireann's water.ie website on 19<sup>th</sup> June 2025 and this stated that there was spare capacity available at Newcastle's wastewater treatment plant.



- Site Layout and Design
- Surface Water
- Permeability Link to the North
- Creche
- Land Ownership Issues
- Policy COS4 and Objective 14 of the South Dublin County Development Plan (SDCDP) 2022-2028
- Seven-Year Permission

### **11.1. Current Activity on Site**

11.1.1. At the outset I would draw the Board's attention to the fact that planning permission has been granted for two substantial developments, SD23A/0136 (48 duplex apartments in four blocks) and LRD23A/0011 / ABP-319500-24 (124 residential units), since this SHD planning application was submitted to the Board in June 2022. Two more minor permissions have also been granted for the alteration of four houses close to the proposed vehicular entrance and an alteration to the link at St. Finian's Way. On my site inspection substantial construction activity was ongoing on site with a number of structures at varying stages of completion. This construction activity is on foot of these permissions.

### **11.2. Zoning and Principle of Development**

11.2.1. The vast majority of the site area is zoned 'Objective RES-N' which is 'To provide for new residential communities in accordance with approved area plans'. Both 'residential' and 'childcare facilities' are permitted in principle under this zoning objective as per Table 12.3 of the SDCDP 2022-2028. 0.2 hectares in the west/south west of the residential parcel is zoned 'Objective RU – To protect and improve rural amenity and to provide for the development of agriculture'. This area of the site is provided as open space which is a use permitted in principle under this zoning objective as per Table 12.16 of the Plan.

11.2.2. Therefore, I consider that the principle of the proposed development is acceptable on site.

### **11.3. Potential Material Contravention – Phasing and Archaeology**

11.3.1. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that the Board may decide to grant a permission for a proposed SHD in respect of an application under section 4, even where the proposed development, or a part of it, contravenes materially the development plan or LAP relating to the area concerned. The exception to this is in relation to the zoning of land. Sub-section (c) states ‘Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development’.

11.3.2. The Planning & Development Act, 2000 (as amended), provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are: (i) the proposed development is of strategic or national importance, (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, (iii) permission for the proposed development should be granted having regard to the RSES for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

11.3.3. The applicant has submitted a Material Contravention Statement. The Newcastle LAP (2012, as extended) and the SDCCDP 2016-2022 have expired and the SDCCDP 2022-2028 is the only relevant Plan. It was referred to as the Draft SDCCDP 2022-2028 in the Statement. The applicant identified the following Draft Plan objectives as being

potentially materially contravened by the proposed development. The objectives are all contained in the adopted Plan, and they retain the same objective reference numbers as per the Draft Plan. The relevant objectives are:

- Core Strategy/Phasing and Non-Compliance with LAP – CS3 Objective 6, CS9 Objective 1, CS9 Objective 4, CS9 SLO3, and CS9 SLO4.
- Archaeology – NCBH 13 Objective 2, NCBH 13 Objective 3.

11.3.4. They are set out in full in sub-section 7.2. My assessment as to whether the proposed development would result in a material contravention of these objectives follows.

#### Core Strategy/Phasing

11.3.5. CS3 Objective 6 – I consider that this is a general statement and in the absence of more specific detail I do not consider that the proposed development could be deemed to material contravene the objective. There is no relevant LAP in place.

11.3.6. CS9 Objective 1 – The LAP has expired. The proposed development includes provision for open spaces, a childcare facility, and an east-west link. Some infrastructure has been provided in accordance with phasing requirements of the SDCDP 2022-2028. I do not consider that the proposed development could be deemed to be explicitly materially contravening this objective.

11.3.7. CS9 Objective 4 – I consider that this is a general statement and in the absence of more specific detail I do not consider that the proposed development could be deemed to material contravene the objective.

11.3.8. CS9 SLO3 – This SLO was referenced in the first recommended reason for refusal in the Chief Executive's Report dated 11<sup>th</sup> August 2022. I address it under the sub-heading 'First Recommended Reason for Refusal' in sub-section 11.4. I conclude that the proposed development would materially contravene the SDCDP 2022-2028, specifically in relation to the non-provision of Taobh Chnoic Park and Burgage South Park. I recommend the planning application be refused on this basis.

11.3.9. Notwithstanding, the Board may take the view, having regard to the planning permissions granted on site under SD23A/0136 and LRD23A/0011 / ABP-319500-24, that section 37 (2)(b)(iv) of the Planning & Development Act, 2000 (as amended), applies i.e. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making

of the development plan. However, taking the SHD application on its own merit and given the absence of information on file specifically relating to the provision of these open space areas, I consider this reason for refusal to be applicable.

- 11.3.10. CS9 SLO4 – I note in relation to this SLO that it is shown on Map 7 of the SDCCP 2022-2028 in a location approx. 400 metres-500 metres east of the SHD application site. It is also unclear as to what ‘Phase 2’ refers to. In my opinion the objective is not clearly stated and I do not consider this objective can be deemed to be materially contravened.

#### Archaeology

- 11.3.11. The archaeology objectives relate to avoiding impact on archaeological heritage and archaeological sites. The application includes an EIAR, and the assessment of the archaeological chapter is set out in sub-section 12.14 of this report. Though archaeological features are present on site, they are to be appropriately managed and preserved by record. A report has been received from the DHLGH which recommends an archaeology condition be attached to any grant of permission.
- 11.3.12. The treatment of archaeology in this application is standard and I do not consider that it could be considered to be a material contravention of the SDCCP 2022-2028. The Chief Executive’s Report dated 11<sup>th</sup> August 2022 states, ‘The Planning Authority does not consider the proposed development to be a material contravention ...’ of either objective, and I agree.

#### Other Possible Material Contraventions

- 11.3.13. Under the ‘Material Contravention Statement’ heading of the Chief Executive’s Report, the objectives set out under the two previous sub-headings are referenced, though only CS9 SLO 3 and COS5 Objective 1 (set out below) are cited in the reason for refusal.
- 11.3.14. *COS5 Objective 1* - To identify and set aside land, ensuring the delivery of the quantum of open space within the general area of the Burgage South Neighbourhood Park as identified in the Newcastle Local Area Plan (2012), and to pursue all means of achieving this including proactive engagement with stakeholders and through the consideration of planning applications affecting this area.

- 11.3.15. This objective is also considered under the sub-heading 'First Recommended Reason for Refusal' in sub-section 11.4 in conjunction with CS9 SLO3. I conclude, in line with the planning authority's recommended reason for refusal, that the proposed development would materially contravene COS5 Objective 1 in the context of CS9 SLO3.
- 11.3.16. The Report states, under the 'Building Height' heading, that 'the five-storey elements are considered to be a significant concern and a material contravention of the LAP'. However, the LAP is no longer applicable, and I also note that, despite the second recommended reason for refusal relating to the five-storey height, the reason does not refer to it being a material contravention.
- 11.3.17. I am not aware of another policy or objective where the proposed development would materially contravene the SDCDP 2022-2028.

#### **11.4. Planning Authority Recommended Reasons for Refusal**

- 11.4.1. The SDCC Chief Executive's Report dated 11<sup>th</sup> August 2022 recommended refusal for two reasons: phasing and delivery of supporting infrastructure and facilities and the proposed apartment buildings. I address the recommended reasons for refusal in this sub-section.

##### **First Recommended Reason for Refusal**

- 11.4.2. The first recommended reason for refusal is,

*'The proposed development, which would fail to deliver key elements of community infrastructure, namely Taobh Chnoic Park and Burgage Park South Park, would materially contravene Policy and COS5 SLO 1: CS9 SLO3 of the 2022-2028 South Dublin Council Development Plan and the provisions Newcastle LAP in relation to phasing and delivery of supporting infrastructure and facilities and therefore would be contrary to the proper planning and sustainable development of the area'*

- 11.4.3. I would draw the Board's attention to the fact that the Newcastle LAP has expired and therefore its provisions are no longer applicable to this SHD planning application. However, the SDCDP 2022-2028 contains Newcastle-specific policies and objectives.
- 11.4.4. It has been stated that two specific objectives would be materially contravened by the proposed development. These are,

- CS9 SLO3: A sequentially phased programme to be submitted alongside any planning application on the subject lands which provides for the delivery of the following in tandem with development or as described 1) No more than 200 units to be permitted before the commencement of the remaining lands of c. 1.4ha to provide for the full Taobh Chnoic Park to the south 2) Urban Park / Square c. 1ha in size (Burgage South Park) to the satisfaction of the planning authority, 3) East-West Link Street, 4) Sean Feirm Park c. 0.2ha in size, 5) a portion of Tower House Park c. 0.1ha. All applications shall demonstrate to the satisfaction of the Planning Authority how they are supporting the delivery of North South Street connections to the Main Street.

With regards delivery of a new primary school at Taobh Chnoic, the timing of this will be subject to educational needs in consultation with the Department of Education. Prior to completion of 200 units confirmation to be provided from the Department of Education on the transfer of lands to provide for the school, subject to their confirmation of need.

- COS 5 SLO 1: To identify and set aside land, ensuring the delivery of the quantum of open space within the general area of the Burgage South Neighbourhood Park as identified in the Newcastle Local Area Plan (2012), and to pursue all means of achieving this including proactive engagement with stakeholders and through the consideration of planning applications affecting this area.

11.4.5. Map 7 of the SDCDP 2022-2028 identifies CS9 SLO 3 in the general site area. The SLO sets out seven separate elements to be 'submitted alongside any planning application on the subject lands which provides for the delivery of the following in tandem with development or as described'. These are:

*1. No more than 200 units to be permitted before the commencement of the remaining lands of c. 1.4ha to provide for the full Taobh Chnoic Park to the south*

11.4.6. Paragraph 6.11 of the applicant's PRSC states that the ownership of the remainder of the Taobh Chnoic Lands in the LAP area are in dispute, and not within the applicant's ability to include in a planning application.

11.4.7. The Chief Executive's Report dated 11<sup>th</sup> August 2022, under the 'Phasing' sub-heading states that this SLO precludes the grant of permission for 280 units. The report notes that the subject disputed land is shown within the blue line ownership boundary.

It also states that 'While landownership may or may not be an issue, the phasing requirements ... are clearly set out and this application fails to deliver this requirement'.

- 11.4.8. Planning application SD23A/0136, as well as 48 duplex apartments, also included 'Provision of c.1.74 hectares of second phase of Taobh Chnoic public park' as part of the proposed development. Permission was granted by SDCC. Condition 5 (b) requires the extension to Taobh Chnoic Park to be completed in full and to the satisfaction of SDCC prior to the occupation of the duplex apartments. On site inspection I noted that works had commenced to the park extension area.
- 11.4.9. The circumstances in this SHD application are unusual in that this application is being processed while construction works are ongoing pursuant to other planning applications granted on site since the SHD application was submitted to the Board. Notwithstanding the provisions of the previous paragraph, the park extension works do not form part of this SHD planning application and they are outside the red line site boundary. Although works have commenced to provide for the full Taobh Chnoic Park, the relevant site boundary under which those works are permitted overlaps with this SHD site. Should this SHD application be granted, and should the applicant decide to pursue this SHD application rather than SD23A/0136, then the park would not be provided under this SHD permission.
- 11.4.10. Seeking further information and the recirculation of same to the relevant parties is not provided for under the relevant SHD legislation. I do not consider that it would be appropriate to address this issue of the delivery of the remaining park area by way of a limited agenda oral hearing as provided for under section 18 of the Planning & Development (Housing) Residential Tenancies Act, 2016, because it would require a significant material alteration to the SHD planning application as originally submitted to the Board, works are already ongoing on site under different planning permissions, and there are other unrelated substantive concerns with the proposed development as set out in my reasons for refusal.
- 11.4.11. Having regard to the foregoing, I consider that to permit the proposed development in the absence of adequate detail on file regarding the carrying out of works for the 1.4 hectares of Taobh Chnoic Park would materially contravene the SLO and would be contrary to the proper planning and sustainable development of the area.

*2. Urban Park / Square c. 1ha in size (Burgage South Park) to the satisfaction of the planning authority*

- 11.4.12. Paragraph 6.14 of the PRSC states that the majority of the Burgage South Park land is under the ownership of the Department of Education and Skills and therefore not within the applicant's control to deliver. The applicant delivered approx. 0.19 hectares of the eastern side of the park as part of Graydon. St. Finian's School and the road/roundabout, encroaches significantly into the Park land. The north eastern portion of the Burgage South Park was permitted under an adjoining development to the north. The applicant states that Burgage Park South is not capable of being delivered in the form envisaged.
- 11.4.13. The Chief Executive's Report refers to COS5 SLO 1 (as per paragraph 11.4.4 of this report). Map 7 shows this SLO in close proximity to the application site. It states that the delivery of this park has not been adequately addressed and that further information is required to confirm that the park will be sequentially provided as appropriate. The Report notes that public open space to the east of Apartment Building B is labelled as Burgage South Park. However, it is considered that this is disjointed from the park area already provided in Graydon, is not in line with the location indicated in the LAP, and does not comply with the phasing objective.
- 11.4.14. I acknowledge the applicant's statement in relation to the deliverability of Burgage South Park when a significant area of it is under third party control. Notwithstanding, SLO 3 specifically requires the delivery of the park 'to the satisfaction of the planning authority'. It is not proposed to deliver this park as part of this planning application and the planning authority, through the Chief Executive's Report, is not satisfied. Therefore, I consider that to permit the proposed development in the absence of the approval of SDCC in this regard would materially contravene CS9 SLO3 and by extension COS5 Objective 1. The Chief Executive's Report recommended further information be sought. However, seeking further information and the recirculation of same to the relevant parties is not provided for under the relevant SHD legislation. I do not consider that it would be appropriate to address this issue of the delivery of the park area by way of a limited agenda oral hearing as provided for under section 18 of the Planning & Development (Housing) Residential Tenancies Act, 2016, for the reasons set out in paragraph 11.4.10.



- 11.4.15. Having regard to the foregoing, I consider that to permit the proposed development in the absence of the approval of the planning authority regarding Burgage South Park would materially contravene the SLOs and would be contrary to the proper planning and sustainable development of the area.

*Other requirements of CS9 SLO 3*

- 11.4.16. The other issues referenced in CS9 SLO 3 were addressed to the satisfaction of SDCC as per the Chief Executive's Report and I agree that they have been addressed in the application in terms of the provision of streets/links and the provision of other open space areas.

*Conclusion*

- 11.4.17. I consider the proposed development, as proposed, would materially contravene CS9 SLO3 and COS5 SLO 1 of the SDCDP 2022-2028.

**Second Recommended Reason for Refusal**

- 11.4.18. The second recommended reason for refusal is,

*'It is considered that elements of the proposed development, namely the 5 storey apartment buildings, by virtue of their density, height, design, bulk and extent would be out of character with the context of the site, would represent a visually prominent form of development relative to its immediate environment. It is therefore considered that the subject site would be contrary to the provisions of the Newcastle Local Area Plan, the South Dublin County Council Development Plan 2022-2028 and the Urban Development and Building Heights Guidelines for Planning Authorities (2018) in terms of standards of urban design, architectural quality and place-making outcomes and the proper planning and sustainable development of the area'.*

- 11.4.19. As with the first recommended reason for refusal I note that the LAP has expired and is no longer applicable. I consider the proposed apartment buildings under the following sub-headings.

*Density*

- 11.4.20. The Chief Executive's Report dated 11<sup>th</sup> August 2022, under the heading of 'Density & Building Height' refers to the Newcastle LAP (2012, as extended) and the Sustainable Residential Development in Urban Areas Guidelines (2009). The LAP has expired, and the 2009 Guidelines have been replaced by the Sustainable Residential

Development and Compact Settlements Guidelines for Planning Authorities (2024). There are a number of references in the current SDCDP 2022-2028 to the 2009 Guidelines but these references generally add 'or any superseding document', 'or any superseding guidelines', or 'as may be updated' e.g. Policy QDP1 Objective 1, Policy QDP 7 Objective 5, and Policy H7 Objective 1. While providing commentary on the various density ranges envisaged for the three neighbourhoods proposed, the Chief Executive's Report considers that the five storey buildings 'would substantially breach the density range of 25-30 dwellings', which was the density range in the LAP for the Burgage South neighbourhood (15-20 dwellings per hectare in both Sean Feirm and Taobh Chnoic).

- 11.4.21. I note that the density figures set out in Table 11 (Core Strategy Table 2022-2028) of the SDCDP 2022-2028 provide for a density of 30-35uph in Newcastle. The proposed net density of approx. 34.3uph is therefore consistent with the density upon which the core strategy is based.
- 11.4.22. This site is an urban extension area of a metropolitan town with a population greater than 1,500 as per the Compact Settlement Guidelines (2024). Residential densities of 35uph-50uph (net) shall generally be applied at this type of location. The proposed net density of approx. 34.3uph is just below the minimum density normally considered acceptable<sup>15</sup>.
- 11.4.23. The proposed overall density on site is within the density range envisaged in the SDCDP 2022-2028 core strategy and is very marginally below the density set out in the Compact Settlement Guidelines (2024). If there were no apartment buildings proposed in this Burgage South neighbourhood area, the density on site would likely fall below the density range used for the core strategy, be significantly below the acceptable range cited in the 2024 Guidelines, and it is likely a refusal would be appropriate on an inadequate and inappropriately low density.
- 11.4.24. Having regard to the foregoing I consider the proposed density to be acceptable.

#### *Height*

- 11.4.25. The Chief Executive's Report dated 11<sup>th</sup> August 2022 considers that the proposed five storeys height of the apartment buildings are a significant concern and they would be

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<sup>15</sup> Further to Footnote 1, if the Board accepted the applicant's assertion that the net site area is 7.55 hectares the net density would be approx. 37.1uph.

a material contravention of the LAP which identifies two-storey heights in the Burgage South area. Apartments of this scale are not suitable under the LAP according to the Report, given the context of the site, and environmental, visual and accessibility/transport criteria also apply. However, the provisions of the Newcastle LAP are no longer applicable and a material contravention was not cited in the reason for refusal.

- 11.4.26. I acknowledge the concerns set out in the Chief Executive's Report. However, as set out under 'Density', above, it is the apartment buildings that allow the site to achieve an acceptable overall density. I also note that there is a four storey mixed-use, but primarily residential, building adjacent to the proposed creche site so increased height is a feature of recently constructed development to the south of Main Street.
- 11.4.27. It can be seen from the site layout plan that the proposed apartment buildings are located away from the houses and duplex apartment blocks, separated by both open spaces and the road network. They are a minimum of 50 metres from houses to the west, over 40 metres from the northern site boundary, a minimum of 30 metres from the eastern site boundary, and a minimum of 45 metres from houses to the south and this allows the buildings to create its own localised character and contributes to site legibility. They would not result in any undue adverse overlooking impact and would have no daylight or sunlight implications. I consider that any overbearing impact would be limited given the setbacks provided from houses and site boundaries.
- 11.4.28. The Building Height Guidelines (2018) state 'the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as ... town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels' (paragraph 1.9) and 'consideration of development proposals must move away from a 2-storey, cul-de-sac dominated approach' in suburban, greenfield developments (paragraph 3.7). Specific Planning Policy Requirement (SPPR) 4 states 'It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure', inter alia, 'a greater mix of building heights and typologies in planning for the future development of suburban locations' and 'avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more'.

11.4.29. Having regard to the foregoing, the proposed development would provide two-storey houses, three-storey duplex apartment blocks, and five-storey apartment buildings with an acceptable density, albeit low in the context of the Compact Settlement Guidelines (2024). I consider that the proposed location of the apartment buildings on site is appropriate. They are located closer to the town centre, church, and school than the lower density houses and duplex apartments which are closer to the fringes of the site and provide a more appropriate transition to the rural area. The apartment buildings are relatively similar in height to mixed-use development in Graydon, adjacent to the proposed creche site, and the layout in this area retains the burgage plots<sup>16</sup>.

11.4.30. Overall, I consider that the proposed apartment buildings make a significant contribution to the site achieving an acceptable density, they are located in an appropriate area of the site close to the town centre, and they create their own localised character in an area with generous setback distances to the closest houses and site boundaries. I consider the proposed height to be acceptable in principle.

#### *Design*

11.4.31. The Chief Executive's Report dated 11<sup>th</sup> August 2022, under the 'Design of Units' sub-heading, outlines concerns in terms of the length of the buildings, the lack of variation in form and design, and the limited visual interest. If permitted, 'a full redesign, realignment and incorporation of context in which they are located would be required'. The apartment blocks are out of character with the area according to the 'Visual Impact' sub-heading of the Report.

11.4.32. The proposed apartment buildings do exhibit a certain architectural monotony in terms of their external appearance. The external materials are cited as brick and render. The main feature appears to be reversing the external finishes on the western and eastern elevations i.e. the west elevation of Block A has brick at ground floor and render on the first to fourth floors with the eastern elevation having a full brick façade while the

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16 Both sub-section 2.10.2 (Burgage Plots) of the applicant's PRSC and page 11 of the Landscape Design Statement state 'overarching this permeable pedestrian-focused network is the existing burgage plot and hedgerow system ... Within the proposed development the creation of successful streets and urban configurations has been carefully balanced with the need to retain the burgage character of the landscape. A study of existing and proposed hedge typology has been undertaken, which, along with recommendations from the LAP, and has formed the basis of a system of retention and reinstatement of plot boundaries and hedgerows'.

west elevation of Block B has a full brick façade with the east elevation having brick at ground floor and render on the first to fourth floors. The respective northern and southern gables of both buildings are the same; a mix of brick and render.

11.4.33. The Chief Executive's Report references the lengths of the buildings as a concern. I consider that the setting of the buildings, with open spaces to all sides, reduces the impact of the 54.8 metres lengths and would not result in monolithic blocks as described in the Report. The site layout can accommodate these lengths. The applicant provided five contiguous elevation drawings. Although two of these illustrate apartment gable elevations in the context of the overall development none of the elevations portrays the main east or west elevations in the context of the other proposed structures.

11.4.34. Having regard to the foregoing, I consider that the design of the apartment buildings is unduly monotonous and the altering of the external finishes between both buildings is not sufficient to create adequate visual interest. I consider that, should permission be granted, a compliance condition could be attached to the effect that revised elevation drawings be submitted for the written approval of the planning authority. I consider this could be done without materially altering the proposed buildings as submitted to the Board e.g. inclusion of additional or alternative external materials or additional architectural features on the facades. In relation to the recommended inclusion of this compliance condition, as opposed to recommending refusal, I note that architectural design of the apartment buildings did not form part of any third party submission or observation.

#### *Visual prominence*

11.4.35. The proposed apartment buildings are substantial structures. They are considered, with the rest of the proposed development, in the context of both architectural heritage and landscape and visual impact in the EIA section of this report, in sub-sections 12.15 and 12.16 respectively. Although the EIA concludes that there would be a significant residual indirect negative effect on the setting of Record of Protected Structures (RPS) no. 241 (Stone Castle (Ruin), Tower House Possible (RM)) to the south of the proposed access on Athgoe Road, this is not as a result of the proposed apartment buildings. There would be no significant landscape or visual impact as a result of the proposed development.

11.4.36. I do not consider that the proposed apartment buildings would result in undue visual prominence given that apartments are standard features of residential development in metropolitan towns, they are set back from proposed houses and boundaries, their location is closer to the urban centre of the town than most of the proposed houses and duplex apartment blocks, and having regard to the existing pattern of development in Graydon.

*Sustainable Urban Housing: Design Standards for New Apartments (July 2023)*

11.4.37. The Guidelines contain seven SPPRs as well as minimum floor areas etc.

- SPPR 1 – 54 one-bed units (all apartments) are proposed, 19.3% of the total number of residential units on site. As this is less than 50% of units the proposed development complies with SPPR 1.
- SPPR 2 – As the application does not involve a building refurbishment scheme or an urban infill scheme on a site of up to 0.25 hectares this SPPR does not apply.
- SPPR 3 – Minimum one and two bed floor areas have been complied with.
- SPPR 4 – This SPPR states ‘In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply: (i) ... (ii) In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme. (iii) ...’

The applicant has submitted a Housing Quality Assessment Apartments and Duplex Units document dated June 2022. Sub-section 3.1 states that there are 152 proposed apartment units; 116 apartments plus 36 duplex apartments, of which 76 are dual aspect i.e. 50%. The Chief Executive’s Report dated 11<sup>th</sup> August 2022 considers that only 40 apartments of the 116 apartments would be dual aspect with 76 having a single aspect. It considers that a minimum of 50% dual aspect apartments should be provided, and that the application is unacceptable in this regard.

I consider that the inclusion of duplex apartments in the calculation of dual aspect apartment numbers is inappropriate and contrary to the spirit and wording of the Apartment Guidelines. Standard duplex apartments are all dual aspect with end-of-block units being triple-aspect. Including these unreasonably inflates the

number and percentage of dual aspect 'apartment' units in terms of compliance with the SPPR. The aim of the Apartment Guidelines is clearly to ensure an adequate number of dual aspect apartments in 'apartment' buildings. From an inspection of the proposed apartment floor plans, I agree with the Chief Executive's Report that only 40 of the 116 apartments, 34%, are dual aspect apartments. The proposed development is therefore deficient in the number of dual aspect apartments. This is a greenfield site and there is no reason that the minimum 50% cannot be achieved. I consider permission should be refused on this basis and no compliance condition can be attached in lieu as it would require a fundamental redesign of the apartment buildings which is beyond the scope of a compliance condition.

- SPPR 5 – 2.7 metres high ground floor floor to ceiling heights have been provided, compliant with this SPPR.
- SPPR 6 – A maximum of 12 apartments per floor per core have been provided, compliant with the SPPR.
- SPPR 7 – This SPPR does not apply as this application is not for a shared accommodation/co-living development.

11.4.38. Minimum floor areas, aggregate floor areas, room widths, storage space, and private open space is outlined in Appendix 1 to the Guidelines. The minimum aggregate floor area for living/dining/kitchen areas in a two-bed apartment is 30sqm. The Housing Quality Assessment Apartment and Duplex Units document illustrate that only 29.75sqm is provided. I consider this minor shortfall could be addressed by way of a compliance condition. I have calculated that 704sqm communal open space is required for the apartment buildings. Page 12 of the applicant's Landscape Design Statement indicates that 1,627sqm is provided.

#### *Conclusion*

11.4.39. I consider that the proposed apartment buildings are acceptable at this location in principle and would help to achieve an adequate density of development without resulting in an adverse visual impact.

11.4.40. Notwithstanding, there is a significant shortfall in the number of dual aspect units proposed within the two buildings. I do not consider it appropriate to use duplex

apartment units to inflate the number of dual aspect units to a percentage that would comply with SPPR 4 of the Apartment Guidelines 2023. I consider granting permission for the development as proposed would be contrary to SPPR 4 of the Apartment Guidelines (2024) and would be contrary to the proper planning and sustainable development of the area. I recommend permission be refused on this basis.

- 11.4.41. In addition, I consider that the architectural design of the proposed buildings is unduly monotonous and a compliance condition should be attached to any grant of permission should the Board decide to grant permission. Further, there is a minor shortfall in the minimum aggregate floor area for living/dining/kitchen areas and this should also be subject of a compliance condition in the event of a grant of permission.

## **11.5. Site Layout and Design**

- 11.5.1. The proposed site layout and design is supported by an Architectural Design Report which references, among other things, green infrastructure, accessibility and movement, build form, connectivity, street hierarchy, distinctiveness (there are three character areas/neighbourhoods as described in paragraph 3.3 of this report: Sean Feirm, Taobh Chnoic, and Burgage South), and external materials (all buildings share a similar architectural language bringing coherence to the development; materials being brickwork, render, dark roof tiles). The site layout, according to the Architectural Design Report, creates people friendly streets by connecting the public realm with the built form.
- 11.5.2. The Chief Executive's Report dated 11<sup>th</sup> August 2022 does not consider that a distinctiveness has been achieved among the three neighbourhoods as it largely relates to different forms of housing and all houses have similar materials and characters. The Report considers that the design language to the east is being again proposed giving rise to a similar design language provided across the majority of lands south of Main Street. The Report expresses concern in relation to the form and design of the proposed apartment buildings and the side elevations of the duplex apartment blocks. Notwithstanding, apart from concerns about the apartment buildings, these issues were not referenced in the conclusion of the Chief Executive's Report nor were they included as recommended reasons for refusal.



- 11.5.3. Since this SHD planning application was received by the Board two other planning applications were made on site, SD23A/0136 and LRD23A/0011 / ABP-319500-24, both of which were granted.
- 11.5.4. Permission was granted under SD23A/0136 for, inter alia, four blocks of 12 no. duplex apartments (48 in total) in the same area of the site as proposed under this SHD application. The permitted site incorporated land to the east to accommodate the additional duplex apartment block which is not included within this SHD application. Otherwise the layout in the vicinity is very similar. The duplex apartment blocks proposed are effectively the same as those permitted under SD23A/0136.
- 11.5.5. Permission was granted by both SDCC (LRD23A/0011) and the Board (ABP-319500-24) for 131 residential units comprising 119 houses and 12 duplex apartments. In terms of site layouts, the permitted LRD and this proposed SHD application are effectively identical in terms of road and open space layouts, building footprints, and proposed and future connections. The areas where the two layouts differ are that the apartment buildings/Burgage South area was excluded from the LRD application site and a duplex apartment block was proposed in the area of proposed SHD house nos. 102-111. Given that effectively the same site layout was previously considered to be acceptable by both the planning authority and the Board, I do not have any concern about the site layout plan proposed under this SHD application<sup>17</sup>. There were minor amendments made to house types in the LRD application, but the general design language and external finishes remain consistent between the LRD and SHD applications.
- 11.5.6. The proposed apartment buildings did not form part of either of the two recent planning applications. I have considered them in the previous sub-section of this report on foot of the planning authority's recommended refusal reason. I have concluded that they are not acceptable because of the deficiency in the number of dual aspect units. However, the general principle of their provision, their location within the site layout,

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<sup>17</sup> Two minor amendments were made to the layout in the Board's permission. One house was omitted (no. 102) and no. 103 was revised to provide overlooking to the revised open space. This could also be done in this SHD application as the same house numbers are in the same locations. The second alteration was the omission of the six southern duplex apartments to provide for additional attenuation and open space.

their contribution to the residential unit mix and site density, and the five-storey heights in the context of the Building Height Guidelines (2018), are acceptable.

11.5.7. The Public Realm report submitted with the Chief Executive's Report dated 11<sup>th</sup> August 2022 refers to a number of issues that are considered to result in a deficiency in the application e.g. the lack of street trees, playground details, planting standards, and boundary treatments. I consider that these issues could be addressed by way of condition should permission be granted. These issues did not form part of a refusal reason despite the planning authority recommending refusal for two reasons.

11.5.8. Having regard to the fact that two planning applications have been granted on site since this SHD application was submitted, and in particular the similarity in site layout and overall development design between the permitted and proposed developments, I consider that the site layout and design proposed as part of this SHD application are acceptable.

## **11.6. Surface Water**

11.6.1. Surface water is the main focus of the Frank Kerins submission and the IFI observation. In addition, the planning authority's Public Realm report which informed the Chief Executive's Report dated 11<sup>th</sup> August 2022 set out a number of concerns in relation to SuDS. I have addressed these issues in detail in EIA sub-section 12.9 (Water, Hydrogeology and Hydrology) and this sub-section should be read in conjunction with that sub-section. I have come to the following conclusions.

11.6.2. In relation to the submission I consider that the application has not satisfactorily demonstrated that the proposed method of surface water disposal can be carried out without undue adverse impact downstream of the subject site given the nature of previous short-term works to the network and the presence of private drains. These limitations could impact on the downstream surface water network and have a significant adverse environmental effect. In addition, a more appropriate method of surface water disposal appears to be feasible comprising a new surface water pipe to an outfall on Hazelhatch Road as provided for under recent planning applications on site. Based on the information on file, I consider that the proposed development would result in a significant indirect adverse impact on the downstream surface water network, and I recommend that permission be refused for this reason.

- 11.6.3. In relation to the IFI observation, I do not consider that there is any issue raised that is not addressed within the application documentation or cannot be appropriately conditioned should permission be granted.
- 11.6.4. The planning authority's Public Realm Section report outlined a number of areas in which it considered the proposed development to be deficient, including in terms of SuDS. The use of SuDS is promoted throughout the SDCDP 2022-2028 e.g. Policy GI4 and its associated objectives. The applicant's Infrastructure Design Report outlines the proposed SuDS on site. I am satisfied that SuDS has been appropriately taken into consideration in the layout and design of the proposed development and would not materially contravene the SDCDP 2022-2028. Notwithstanding, should the Board be minded to grant permission, I consider a compliance condition could be attached to the effect that revised SuDS details/landscaping layout be submitted for the approval of the planning authority, within the context of the permitted roads layout and building footprints. I note that SuDS issues were not referenced in the planning authority's recommendation to refuse permission.

#### **11.7. Permeability Link to the North**

- 11.7.1. A submission has been received from the developer of the adjoining St. Finian's Way housing development, which has not yet been taken-in-charge by SDCC. It states that the applicant has not approached the landowner with respect to the proposed connectivity into St. Finian's Way as shown in the application.
- 11.7.2. I note that there was a recent grant of permission, LRD24A/0010W, for an amendment to the permitted LRD related to the north-eastern access point linking to St. Finian's Way to allow for pedestrian / bicycle access only, and the provision of a new vehicular point of access in the north-eastern section of the site between Phase 2 and adjacent land to the north under separate ownership.
- 11.7.3. Notwithstanding, the current application proposes a vehicular connection at this location, as was permitted under LRD23A/0011 / ABP-319500-24. The initial and main part of St. Finian's Way was permitted by the planning authority under SD18A/0363. The site layout plan submitted with the application showed vehicular connectivity at the south east corner of the site, identified as 'future link'. After this was altered as part of a further information response, Condition 3 (a) required a revised site layout to

include, inter alia, the continuation of the north-south street to the southern boundary to allow for future connectivity to the lands to the south. The grant was subject of a third party appeal. Condition 6 (a) of the Board's grant was that roads and traffic arrangements serving the site were to be in accordance with the detailed requirements of the planning authority. A revised site layout plan showed the north-south road constructed to the boundary. A 'future link' was also shown in the south west corner of the St. Finian's Way site which is proposed as part of this SHD application. Though the planning authority's website does not show an acceptance of the compliance layout this road has been constructed at St. Finian's Way as per the compliance site layout.

- 11.7.4. Having regard to the foregoing, the permission for St. Finian's Way included for future vehicular connectivity to the land to the south. Therefore, notwithstanding the provisions of the third party submission and the recent permitted amendment to the LRD permission, insofar as it relates to this SHD application I consider that the link can be included as part of any grant of permission, should the Board be of a mind to grant permission.

#### **11.8. Creche**

- 11.8.1. The public notices, in relation to the creche, state 'Amendment to permitted Creche (c. 518sqm) in 'Graydon' (ABP References: TA06S.305343 & ABP-305343-19) to now provide a Creche of c. 778 sq. m of 2 no. storeys'.
- 11.8.2. I note that, after this SHD application was submitted to the Board, a subsequent planning application was made in December 2022 to SDCC under SD22A/0459. The creche was effectively identical to that proposed under this SHD application. The creche was granted permission by SDCC and also, following a third party appeal, by the Board under ABP-316066-23. On site inspection there were no construction works ongoing in relation to this facility.
- 11.8.3. Given that an effectively identical facility was permitted since this SHD application was made I have no concern in relation to it. However, given that it is proposed to serve both the completed Graydon development and the proposed development, should the Board decide to grant permission I recommend that a condition be attached that this facility shall be fully fitted out and suitable for immediate occupation and operation

prior to the occupation of one hundred residential units, to ensure orderly development and that facilitating infrastructure is developed with the housing.

### **11.9. Land Ownership Issues**

- 11.9.1. Two submissions received on file refer to general issues of land ownership.
- 11.9.2. In relation to the submission relating to St. Finian's Way, I have addressed this previously in this report under sub-section 11.7.
- 11.9.3. The other submission relates to a legal agreement between an adjoining landowner and the current landowner/applicant. In my opinion, the basic issue as set out in the submission is a civil issue between the relevant parties. The Board is not a party to any agreement and makes decisions based on the proper planning and sustainable development of the area. I do not consider that the Board is obliged to uphold agreements made in relation to land between third parties or involve itself in same.
- 11.9.4. Notwithstanding, I note that there are two roads to the southern boundary. Page 44 of the Architectural Design Report identifies these as 'future links'. In the planning authority's recommended conditions should the Board decide to grant permission, one of the Roads Department's recommended conditions is 'The applicant shall construct all proposed future link roads to the boundary to ensure no "ransom Strips" remain to inhibit potential development' [sic]. I consider this should be included in any grant of permission and it would be a standard condition. It is unclear whether these future link roads would serve the observer's landholding as a map illustrating the relevant landholding has not been provided, though it is stated that it is adjacent to the west/south west.
- 11.9.5. Having regard to the foregoing I consider that the matter raised in the submission is a civil matter between the parties. However, the planning application provides for future links to the south and a condition can be attached to this effect should a grant of permission be forthcoming.

**11.10. Policy COS 4 and Objective 14 of the South Dublin County Development Plan (SDCDP) 2022-2028**

- 11.10.1. A submission has been received which outlines the failure of the application to demonstrate compliance with Policy COS 4 and Objective 14 of the Plan and concern is expressed that this will give rise to demand for the provision of sport and recreation amenity outside the boundary of the LAP. As noted elsewhere the LAP is no longer applicable. However, it is reasonable to interpret this as outside suitably zoned land in the SDCDP 2022-2028.
- 11.10.2. Policy COS 4 states, 'Ensure that all communities are supported by a range of sporting facilities that are fit for purpose, accessible and adaptable'.
- 11.10.3. Policy COS4 Objective 14 states, 'To provide a sports and recreational amenity in Newcastle, incorporating a full-size GAA, multi-use, all-weather playing pitch, two basketball courts, tennis court, dressing rooms, a walking / jogging / cycling track as well as parking areas and related additional open space'.
- 11.10.4. The submission appears to consider that this objective relates specifically to the land subject of the application. It is stated that the applicant accepts that the objective applies to the site. This appears to be because it was referred to on page 44 of the applicant's PRSC. The submission states 'It was open to the Applicant to have Objective 14 deleted at Stage 2 Public Consultation Process of the Development Plan, if they considered that it did not apply to the development of their lands not yet subject to a planning application'.
- 11.10.5. I do not agree with the submission that the fact that the applicant referred to the objective in the PRSC means that it considers it applicable to the subject site. To not refer to this relevant Newcastle-specific objective in the PRSC would have been a deficiency in the PRSC.
- 11.10.6. The wording of COS4, and in particular COS4 Objective 14, does not refer to a specific location that this sports and recreational amenity must be located in. There is no requirement for this SHD application to provide this facility. There are a number of infrastructural phasing requirements applicable as addressed previously in this report, such as public open spaces and link streets, but a sports and recreation amenity is not cited.

11.10.7. In conclusion, the absence of a sports and recreation amenity facility in this application is not an issue of concern. COS4 Objective 14 states that it is an objective to provide such a facility, but it does not state where in the town it is to be provided, or by who.

#### **11.11. Seven-Year Permission**

11.11.1. The applicant is seeking a seven year permission for the proposed development as per the public notices. The reasoning for this is 'having regard to the nature of the project and the need for flexibility to respond to market demand' (sub-section 2.18.1 of the EIAR).

11.11.2. Paragraph 7.4 of the Development Management Guidelines for Planning Authorities (2007) states 'Planning authorities may grant permission for a duration longer than 5 years if they see fit, e.g. for major developments (for example for wind energy developments) but it is the responsibility of applicants in the first instance to request such longer durations in appropriate circumstances'. In my opinion there is no justification in this case for extending the standard five-year permission, given the nature and scale of the proposed development. I note that an extension of duration to the permission can be sought should this be necessary.

11.11.3. Having regard to the foregoing, should the Board decide to grant permission, I consider that a standard five-year permission is sufficient and recommend that this be included as a condition of any grant of permission.

## **12.0 Environmental Impact Assessment (EIA)**

This section sets out the EIA of the proposed project and it should be read in conjunction with the planning assessment, AA, and WFD assessment sections. The proposed development provides for 280 residential units, a childcare facility, and associated site works on an 8.47 hectares site at Newcastle, Co. Dublin.

## **12.1. Statutory Provisions**

12.1.1. Notwithstanding the proposed development's sub-threshold number of proposed residential units and site area<sup>18</sup>, an EIAR was prepared by the applicant having regard to Schedule 5 Part 2 Paragraph 15 of the Planning & Development Regulations, 2001 (as amended), which refers to 'Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7'. Page 1-5 of the EIAR states 'Having regard to the location of the project in Newcastle, within the historic Burgage Field Plots, location of protected structures in proximity (including Tower House) and also within the Newcastle Architectural Conservation Area, it was considered appropriate to undertake a sub-threshold EIA'.

## **12.2. EIA Structure**

12.2.1. This section of the report comprises the EIA of the proposed development in accordance with the Planning & Development Act, 2000 (as amended) and the associated Planning & Development Regulations, 2001 (as amended), which incorporate the European directives on EIA (Directive 2011/92/EU as amended by 2014/52/EU). Section 171A of the Planning & Development Act, 2000 (as amended) defines EIA as:

(a) consisting of the preparation of an EIAR by the applicant, the carrying out of consultations, the examination of the EIAR and relevant supplementary information by the planning authority or the Board, the reasoned conclusions of the planning authority or the Board and the integration of the reasoned conclusion into the decision on the proposed development, and,

(b) includes an examination, analysis and evaluation, by the planning authority or the Board, that identifies, describes and assesses the likely direct and indirect significant effects of the proposed development on defined environmental parameters and the

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<sup>18</sup> The thresholds being Schedule 5 Part 2 Class 10 (b)(i) (construction of more than 500 dwelling units) and 10 (b)(iv) (Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere) of the Planning & Development Regulations, 2001 (as amended).



interaction of these factors, and which includes significant effects arising from the vulnerability of the project to risks of major accidents and/or disasters.

12.2.2. Article 94 of the Planning & Development Regulations, 2001 (as amended) and associated Schedule 6 set out requirements on the contents of an EIAR.

12.2.3. This EIA section of the report is therefore divided into two sections. The first section assesses compliance with the requirements of Article 94 and Schedule 6 of the Regulations, 2001 (as amended). The second section provides an examination, analysis, and evaluation of the development and an assessment of the likely direct and indirect significant effects of it on the following defined environmental parameters, having regard to the EIAR and relevant supplementary information:

- population and human health,
- biodiversity, with particular attention to species and habitats protected under the Habitats Directive and the Birds Directive,
- land, soil, water, air and climate,
- material assets, cultural heritage and the landscape,
- the interaction between the above factors, and
- the vulnerability of the proposed development to risks of major accidents and/or disasters.

12.2.4. The assessment also provides a reasoned conclusion and allows for integration of the reasoned conclusions into the Board's decision, should it agree with the recommendation made.

12.2.5. It should be noted that reasoned conclusion refers to significant effects which remain after mitigation. Therefore, while I outline the main significant direct, indirect, and cumulative effects within my assessment of each environmental factor, only those effects that are not or cannot be appropriately mitigated are incorporated into my reasoned conclusion in subsection 12.19.

### **12.3. Issues Raised in Respect of EIA**

12.3.1. No EIA-specific issue was raised in the nine submissions from third parties and prescribed bodies. Surface water was the basis of one third party submission and is

also referenced in the IFI observation, while archaeology and biodiversity issues were referenced in the observation from the DHLGH.

12.3.2. These issues are elaborated upon in the assessment below.

#### 12.4. **Compliance with the Requirements of Article 94 and Schedule 6 of the Planning Regulations**

12.4.1. In the table below, I assess the compliance of the submitted EIAR with the requirements of article 94 and schedule 6 of the Planning & Development Regulations, 2001 (as amended).

**Table 12.1 – Compliance with the Requirements of Article 94 and Schedule 6 of the Planning Regulations**

Article 94(a) Information to be contained in an EIAR (Schedule 6, paragraph 1)
A description of the proposed development comprising information on the site, design, size, and other relevant features of the proposed development, including the additional information referred to under section 94(b).
A description of the proposed development is set out in Chapter 2 (Description of the Project and Alternatives Examined) of the EIAR, and specifically in sub-sections 2.2-2.20 which include descriptions of the site location and physical characteristics of the proposed development. No demolition works are proposed. I am satisfied that the development description provided is adequate to enable a decision.
A description of the likely significant effects on the environment of the proposed development, including the additional information referred to under section 94(b).
An assessment of the likely significant direct, indirect, and cumulative effects of the development is carried out for each of the technical chapters of the EIAR. I am satisfied that the assessment of significant effects is comprehensive and sufficiently robust to enable a decision on the project.
A description of the features, if any, of the proposed development and the measures, if any, envisaged to avoid, prevent, or reduce and, if possible, offset likely significant adverse effects on the environment of the development, including the additional information referred to under section 94(b).

Mitigation is addressed in each of the EIAR technical chapters. Chapter 17 (Summary of EIA Mitigation and Monitoring Measures) sets out a summary of the range of methods described within the individual chapters which are proposed as mitigation. Designed-in mitigation includes the provision of SuDS.

Relevant supporting appendices include those related to archaeology, a Resource & Waste Management Plan, Operational Waste Management Plan, a Bat Report, and a Mobility Management Plan. I am satisfied that proposed mitigation measures comprise standard good practices and site-specific measures that are largely capable of offsetting significant adverse effects identified in the EIAR.

A description of the reasonable alternatives studied by the person or persons who prepared the EIAR, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the proposed development on the environment, including the additional information referred to under section 94(b).

Subsection 2.25 (Alternatives Examined) provides an overview of the alternatives considered.

An alternative location was not evaluated because the site is zoned to accommodate the uses proposed. A do-nothing alternative would be an inefficient use of zoned lands. An alternative use would not result in the best use of these lands, particularly having regard to the generally acknowledged need of the population for housing. Given the residential nature of the project, alternative processes and technologies is limited. Energy efficiency measures are incorporated. The proposed construction works comprise relatively standard building construction processes, which comprise some timber frame elements which are more sustainable compared to 100% block work. It is stated that a number of alternative layouts for the proposed development were considered over the design process prior to the proposed layout being finalised. Three alternative layouts are set out with reasons for choosing the application option identified.

I am satisfied that reasonable alternatives were considered, the main reasons have been set out for opting for the layout proposed, and potential impacts on the environment have been taken into account.

Article 94(b) Additional information, relevant to the specific characteristics of the development and to the environmental features likely to be affected (Schedule 6, Paragraph 2)

A description of the baseline environment and likely evolution in the absence of the development.

The baseline environment is addressed in each technical chapter within the EIAR and the likely evolution of the environment in the absence of the proposed development is described, with particular reference to 'do nothing' scenarios (except in the biodiversity chapter). I am satisfied with the descriptions of same.

A description of the forecasting methods or evidence used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information, and the main uncertainties involved.

The relevant methodology employed in preparing the EIAR, including desk-based assessment, consultations, site visits, site investigations and excavations, impact assessment etc. is set out in the individual chapters.

The applicant has identified any difficulties encountered in each technical chapter, apart from the waste management and landscape and visual impact chapters which made no reference to this issue. No difficulties were identified in the chapters that did refer to this issue.

I am satisfied that the forecasting methods overall are adequate in respect of likely effects.

A description of the expected significant adverse effects on the environment of the proposed development deriving from its vulnerability to risks of major accidents and/or disasters which are relevant to it.

Chapter 15 (Risk Management for Major Accidents and/or Disasters) identifies and assesses the likelihood and potential significant adverse impacts on the environment arising from the vulnerability of the proposed development to risks of major accidents and/or natural disasters. It considers whether the proposed development is likely to

cause accidents and/or disasters and its vulnerability to them. I am satisfied this issue has been adequately addressed in the EIAR.
Article 94 (c) A summary of the information in non-technical language.
Volume I of the EIAR comprises a Non-Technical Summary. I am satisfied that this is concise, suitably comprehensive, and would be easily understood by members of the public.
Article 94 (d) Sources used for the description and the assessments used in the report
Each chapter provides a list of documents and information used to inform the chapter assessment. I consider the sources relied upon are generally appropriate and sufficient in this regard.
Article 94 (e) A list of the experts who contributed to the preparation of the report
A list of the various experts who contributed to the EIAR, their specialist topic(s)/input, and their qualifications are set out in table 1.5 (EIAR List of Competent Experts) of the EIAR. I am satisfied that the EIAR demonstrates the competence of the individuals who prepared each chapter of the EIAR.

### Consultations

- 12.4.2. The application has been submitted in accordance with the requirements of the Planning & Development Act, 2000 (as amended), and the Planning & Development Regulations, 2001 (as amended), in respect of public notices. Submissions have been received from statutory bodies and third parties and are considered in this report, in advance of decision making.
- 12.4.3. I am satisfied, therefore, that appropriate consultations have been carried out and that third parties have had the opportunity to comment on the proposed development in advance of decision making.

### Compliance

- 12.4.4. Having regard to the foregoing, I am satisfied that the information contained in the EIAR, and supplementary information provided by the applicant is sufficient to comply with article 94 of the Planning & Development Regulations, 2001 (as amended).

## **12.5. Assessment of Likely Significant Effects**

- 12.5.1. The following subsections set out an assessment of the likely environmental effects of the proposed development under the environmental factors as set out in section 171A of the Planning & Development Act, 2000 (as amended). It includes an examination, analysis, and evaluation of the application documents, including the EIAR and submissions received and identifies, describes, and assesses the likely direct and indirect significant effects (including cumulative effects) of the development on these environmental parameters and the interactions of these effects.

## **12.6. Population and Human Health**

### **Issues Raised**

- 12.6.1. Matters relevant to population raised in third party submissions were in relation to land-related issues and the provision of sporting/recreational facilities. I do not consider these to be environmental issues and they have been addressed in sub-sections 11.7, 11.9, and 11.10 of the Planning Assessment.

### **Examination of the EIAR**

#### Context

- 12.6.2. Chapter 3 (Population and Human Health) notes this is a broad ranging topic and addresses the existence, activities and wellbeing of people as groups. Human health is a very broad factor that would be highly project dependent. Other environmental factors are relevant e.g. water, air quality, and noise. Relevant guidance and other documentation are cited.

#### Baseline

- 12.6.3. The receiving environment is considered under the sub-headings of employment and economic activity, social patterns/population, land use and settlement patterns, housing, health and safety, and risk of major accidents and disaster (none).

#### Potential Effects

- 12.6.4. The EIAR identifies the potential for a range of environmental effects on population and human health. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.2. Minor effects are not identified,

except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.2 – Environmental Effects on Population and Human Health

Project phase	Potential effects
Do-nothing	An under-utilisation of the site and a perpetuation of the housing shortfall. No construction phase employment. A limited <i>neutral</i> change from the baseline.
Construction	<p>Construction noise is predicted to be above the noise threshold at residences less than 35 metres from construction works. The impact at these distances is predicted to be <i>negative, moderate to significant and short-term</i>. At greater distances it is predicted to be <i>negative, slight to moderate and short-term</i>.</p> <p><i>A slight temporary positive impact</i> on economic activity.</p> <p>In terms of health and safety the proposed development could have a <i>slight negative, short-term impact</i> due to traffic and associated nuisance, dust and noise.</p>
Operation	<p>The increase in population/residential accommodation will have a <i>positive permanent slight impact</i> in terms of economic activity.</p> <p>The proposed development will precipitate a <i>slight positive, long-term impact</i> on social patterns.</p> <p>The delivery of 280 residential units at this location will have a <i>direct, positive, and significant impact</i> in terms of housing.</p>
Decomissioning	Sub-section 3.12 states no reinstatement measures are proposed with respect to population and human health.
Cumulative	Cumulative increased population growth will have a <i>moderate, long-term, positive impact</i> and accords with the planning policy context and demand for housing in the area.

### Mitigation

- 12.6.5. Construction phase mitigation is set out in sub-section 3.7.1 of the EIAR. Reference is made to the CEMP and a Construction & Demolition Waste and By Product Management Plan.
- 12.6.6. Operational phase mitigation is set out in sub-section 3.7.2 of the EIAR and refers to the incorporation of DMURS in the development design.

### Residual Effects

- 12.6.7. A number of inter-related environmental topics are relevant to population and human health.
- 12.6.8. In the construction phase, notwithstanding mitigation, there will be some minor temporary residual impacts on population/human beings and human health, most likely with respect to nuisance caused by construction activities. It is anticipated that adverse likely and significant environmental impacts will be avoided. The overall predicted likely impact will be short-term not significant, and neutral. Imperceptible, positive short-term impacts are likely to arise due to an increase in employment and economic activity.
- 12.6.9. In the operational phase, the proposed development will result in a positive alteration to the existing underutilised site, including the provision of a creche. The implementation of the remedial and mitigation measures will reduce significant and likely environmental impacts of the operational phase of the proposed development on population and human health.

### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

- 12.6.10. I have examined, analysed, and evaluated chapter 3 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of population and human health. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on population and human health, as a consequence of the proposed development, have been identified.
- 12.6.11. Notwithstanding, I note that certain information provided is now dated e.g. the economic and employment activity figures, the absence of any data relating to the 2022 census, and reference to the now complete Graydon development as being



under construction. However, the information was up to date at the time the EIAR was compiled, and I do not consider that this has any material impact on the ability to adequately assess the proposed development in the context of population and human health.

- 12.6.12. There is reference in paragraph 3.6.3 to an employment hub which would provide employment opportunities in the operational phase. This appears to be a typographical error as the only employment generating element of the operational phase of the proposed development is the childcare facility.
- 12.6.13. I note that this environmental factor would have significant interactions with other environmental factors. In particular, during the construction phase, air quality and noise and vibration would be relevant. Air quality is considered in sub-section 12.10 as air is a stand-alone environmental factor cited in the Planning & Development Act, 2000 (as amended). I consider it appropriate to consider noise and vibration under the 'Population and Human Health' heading.
- 12.6.14. While I do not consider that there would be any notable noise impacts once the proposed development is occupied, there may be construction phase noise and vibration impacts given the proximity to existing development. Chapter 8 (Noise and Vibration) of the EIAR assesses this. Construction phase noise impacts will likely have a short-term significant effect when works are being carried out within 35 metres of noise sensitive locations (houses). No significant vibration effects are considered likely. Operational stage impacts are predicted to be not perceptible. Construction and operational stage mitigation measures are set out. This includes best practice control measures for the construction stage.
- 12.6.15. The baseline environment appears to exclude existing houses in the Graydon Park area adjacent to the south east of the main residential parcel. However, there are a limited number of houses (fewer than ten) within 35 metres of the common boundary with the proposed development site so I do not consider that including these would have had a material impact on the conclusions reached in the noise and vibration chapter. I concur with the chapter that significant noise impacts would likely arise during the construction phase to houses in proximity to the construction works, and I include the proposed childcare facility site in that, despite best practice mitigation. However, this is a standard residential development project, typical of those carried

out in the area over the last few years, and I do not consider that this is reason to recommend a refusal of permission.

- 12.6.16. Suitable mitigation measures have been proposed, including construction phase noise, which I consider are sufficient to ensure that there would be no undue adverse impacts on population and human health. I am also satisfied that there would be no significant cumulative adverse impacts.

**Conclusion: Direct and Indirect Effects (Population and Human Health)**

- 12.6.17. Having regard to my examination of environmental information in respect of population and human health, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11<sup>th</sup> August 2022, the submissions and observations received, and my site inspection, I consider that the main significant direct and indirect effects on population and human health, after the application of mitigation measures, are:

- Direct, positive, significant impact for population, due to the substantive increase in the housing stock during the operational phase,
- Significant, direct negative short-term noise effects arising for population in the vicinity of site works during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures.

**12.7. Biodiversity**

**Issues Raised**

- 12.7.1. The IFI observation is primarily directed to issues of surface water, however there is a reference to an indirect impact of the proposed development in the context of the fauna and flora of the surface water system. Nature conservation is a sub-heading in the observation of the DHLGH. No particular concern was expressed in that observation with two conditions, related to the timing of vegetation clearance and submission of a lighting design for approval in relation to bats, recommended.

## **Examination of the EIAR**

### **Context**

- 12.7.2. Chapter 4 (Biodiversity) assesses the biodiversity value of the site and the potential impacts of development on the ecology of the area. Appendix G (Bat Fauna Impact Assessment dated 10<sup>th</sup> June 2022) is submitted, and the separate AA Screening Report is also referenced. The Guidelines that the chapter was prepared in accordance with are identified. A desk survey was undertaken and multiple terrestrial and avian ecology surveys, mammal surveys, and bat fauna surveys were undertaken on varying dates between September 2020 and June 2022.

### **Baseline**

- 12.7.3. The receiving environment is described under sub-section 4.3 of the EIAR. The surface water zone of influence to the Griffeen/Liffey is noted. The Grand Canal pNHA approx. 2.1km to the north west is the closest area of natural heritage designation. The nearest European site is Rye Water Valley / Carton SAC approx. 7.1km to the north. There are no Ramsar sites within 15km. There is no direct pathway to designated sites.
- 12.7.4. No species of conservation importance was noted on site. There was no evidence of a bat roost on site. Habitats are identified in figure 4.10. The site mainly comprises recolonising bare ground (ED3) and spoil and bare ground (ED2), as a result of previous site clearance works for Graydon, including a haul road and site compound. An area of improved agricultural grassland (GA1) was identified in the north/central area of the main parcel, which includes a fox den, and unmaintained hedgerows (WL1) were also identified in the central and eastern section. There is a drainage ditch within a hedgerow. The hedgerows would be of local biodiversity importance due to the nesting and foraging resource for birds and providing foraging corridors for bats. There is no other habitat of conservation significance.

### **Potential Effects**

- 12.7.5. The EIAR identifies the potential for a range of environmental effects on biodiversity. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.3. Minor effects are not identified, except where there is

potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.3 – Environmental Effects on Biodiversity

Project phase	Potential effects
Do-nothing	Not referenced
Construction	Effects on habitats include a <i>moderate adverse not significant permanent</i> effect on the hedgerows because of its resource for birds and bats.  Effects on species (bats, terrestrial mammals, birds, amphibians and terrestrial flora) are all cited as <i>slight adverse not significant</i> .
Operation	Effects on habitats are <i>low adverse not significant permanent</i> except hedgerows which has a <i>neutral</i> effect as a new green link will reinstate lost hedgerows.  Effects on species are <i>neutral</i> effects to terrestrial mammals, amphibians, and terrestrial flora, <i>low adverse</i> effects on bats, and a <i>medium adverse not significant</i> effect on birds.
Decommissioning	Not referenced
Cumulative	The development of the combined site would not be seen to have a significant cumulative impact on biodiversity. Given this, in-combination effects with other developments would be <i>unlikely, neutral, not significant and localised</i> . No significant cumulative effects are foreseen on biodiversity.

### Mitigation

- 12.7.6. Mitigation measures, which primarily relate to the construction phase, are set out in Table 4.10 of the EIAR. They are categorised into downstream impact on watercourses, biodiversity, birds, and bats. Measures outlined under the first two headings mainly relate to good construction practices e.g. avoidance of contaminated surface water runoff, appropriate storage, and reduction of dust emissions. The appointment of a project ecologist to oversee works is cited. Measures relating to birds

includes the timing of the removal of nesting habitat outside bird breeding season. Lighting in open spaces for bats is referenced.

#### Residual Effects

12.7.7. The overall effect on biodiversity will be a low adverse not significant impact, primarily as a result of the loss of terrestrial habitats of low importance, retention of existing hedgerows where possible, supported by the creation of additional biodiversity features.

#### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

12.7.8. I have examined, analysed, and evaluated chapter 4 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of biodiversity. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on biodiversity, as a consequence of the proposed development, have been identified.

12.7.9. Notwithstanding, as with the previous environmental factor (population and human health), certain information provided is now dated, in particular in relation to the habitats on site. Construction work and activity is ongoing on the entire site, with the exception of the creche site which itself has been subject of previous works. However, the information was up to date at the time the EIAR was compiled. Given the absence of any significant or notable biodiversity feature on site I do not consider that the ongoing construction activity has a material impact on the assessment of the proposed development in the context of biodiversity.

12.7.10. This chapter of the EIAR should be read in conjunction with section 13 (Appropriate Assessment (AA) Screening) of this report, which addresses the potential for impact on European sites. I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European site and is therefore excluded from further consideration.

12.7.11. There is reference in Table 10.4 to Dawson's Demesne Stream. This appears to be cited in error as there is no stream of that name in the vicinity.

12.7.12. Although a moot point at this stage given the ongoing construction activity, suitable mitigation measures have been proposed, which I consider are sufficient to ensure that there would be no undue adverse impacts on biodiversity. I consider mitigation

measures within Table 4.10 addresses the issues raised in the IFI and Departmental observations. I am also satisfied that there would be no significant cumulative adverse impacts.

### **Conclusion: Direct and Indirect Effects (Biodiversity)**

12.7.13. Having regard to my examination of environmental information in respect of biodiversity, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11<sup>th</sup> August 2022, the submissions and observations received, and my site inspection, I do not consider that there are any significant direct or indirect biodiversity effects.

## **12.8. Land and Soils**

### **Issues Raised**

12.8.1. None.

### **Examination of the EIAR**

#### Context

12.8.2. Chapter 5 (Land and Soils) assesses the proposed development's land, soils and underlying geology. Appendix D to the EIAR comprises site investigations and a Preliminary CEMP dated June 2022. The assessment was undertaken with reference to methodology and criteria set out in identified documentation. A desk study was undertaken as well as a site inspection, topographical survey, and site investigations in May/June 2018.

#### Baseline

12.8.3. The receiving environment is described under sub-section 5.3 of the EIAR. The overall topography of the site falls from south to north towards Newcastle. Soil conditions generally comprise of topsoil to a maximum depth of 400mm over sandy gravelly clays with occasional cobbles and boulders over gravel deposits. The subsoil is till derived from limestone. No bedrock was discovered in the boreholes. Underlying bedrock is limestone.

12.8.4. The site's groundwater vulnerability is 'low' to the south of the site, 'moderate' to the middle, and 'high' to the north. Underlying aquifers are classified as 'Locally important

aquifer – Bedrock which is moderately productive only in local zones’. Site investigations indicate that the vulnerability classification of the aquifer will be lower where substantial overburden is present and provides protection to the bedrock. The depth of overburden decreases to approximately 2 metres over bedrock to the north of the subject site. Surface water soakaway tests indicate that the permeability of the ground is very low with little infiltration occurring. As such the groundwater vulnerability is likely to be less vulnerable due to the substantial depths of low permeability overburden on the site than indicated on the Geological Survey Ireland interactive mapping.

### Potential Effects

- 12.8.5. The EIAR identifies the potential for a range of environmental effects on land and soils. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.4. Minor effects are not identified, except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.4 – Environmental Effects on Land and Soils

Project phase	Potential effects
Do-nothing	There would be <i>no impact</i> on the existing land, soils or geology.
Construction	<p>Soil compaction as a result of construction and maintenance traffic could have a <i>negative slight-moderate short-term impact</i>.</p> <p>The risk of deterioration of the subsoil layer by erosion, which is likely to be a <i>short-term moderate effect</i>.</p> <p>There is a risk of accidental pollution related to use of hazardous materials e.g. oils, fuels, and cement.</p>
Operation	<p>On completion of the construction phase, it is not envisaged that there would be further direct or indirect effects on the existing soils or geology.</p> <p>The potential effects of accidental spills or leaks will have a <i>negative slight effect</i>.</p>

Decomissioning	No requirement for reinstatement.
Cumulative	Overall, the cumulative impact is predicted to be <i>neutral</i> in terms of quality and of a <i>temporary imperceptible significance</i> .

### Mitigation

12.8.6. Mitigation measures are set out in sub-section 5.6 of the EIAR. Incorporated design mitigation includes landscaping and SuDS.

12.8.7. Construction phase mitigation references the CEMP. Imported fill and aggregate will be from reputable suppliers. Operational phase mitigation references regular maintenance of SuDS features.

### Residual Effects

12.8.8. The residual effects on topsoil and subsoil will not be significant.

### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

12.8.9. I have examined, analysed, and evaluated chapter 5 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of land and soils. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on land and soils, as a consequence of the proposed development, have been identified.

12.8.10. As with previous environmental factors, the situation on site is different to that set out in the EIAR, given that subsequent planning permissions have been acted upon. In this case extensive groundworks have already been carried out with permitted houses and duplex blocks at different stages of construction. However, the information was up to date at the time the EIAR was compiled. Given the absence of any significant or notable land/soil feature on site I do not consider that the ongoing construction activity has a material impact on the assessment of the proposed development in the context of land and soils.

12.8.11. Similar to other chapters, the mitigation measures suggested are moot at this stage given the ongoing construction activity. Notwithstanding, suitable mitigation measures have been proposed, which I consider are sufficient to ensure that there would be no undue adverse impacts on land and soils. Operational stage mitigation includes regular maintenance of site services, SuDS features, and attenuation systems, and



emptying oil separators as per manufacturer's recommendations, which I consider addresses an issue raised by IFI in its observation. I am also satisfied that there would be no significant cumulative adverse impacts.

### **Conclusion: Direct and Indirect Effects (Land and Soils)**

- 12.8.12. Having regard to my examination of environmental information in respect of land and soils, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11th August 2022, the submissions and observations received, and my site inspection, I do not consider that there are any significant direct or indirect land and soil effects.

## **12.9. Water, Hydrogeology and Hydrology**

### **Issues Raised**

- 12.9.1. A submission raises issues of hydrology downstream of the site as summarised under the 'Surface water (Frank Kerins)' sub-heading in section 8 of this report. Given that water/hydrology is an environmental factor to be considered in an EIAR I consider that it can be addressed under this sub-heading in the interest of clarity, rather than in the Planning Assessment section of this report, though I have referenced it in sub-section 11.6. The IFI observation is primarily concerned with the protection of the hydrological environment. Issues in relation to SuDS have been raised in the Public Realm report accompanying the SDCC Chief Executive's Report dated 11<sup>th</sup> August 2022.

### **Examination of the EIAR**

#### Context

- 12.9.2. Chapter 6 (Water, Hydrogeology and Hydrology) assesses and evaluates the impact of the proposed development on the site's water, hydrogeology and hydrology. A SSFRA has been submitted as a standalone report as has a Hydrological Qualitative Risk Assessment dated 8<sup>th</sup> June 2022. A desk survey and site visits were carried out and the assessment was carried out in accordance with the methodology and criteria set out in identified documents.

#### Baseline

- 12.9.3. The Newcastle LAP 2012 (as extended) describes Newcastle as predominantly within the Shinkeen Stream catchment with the eastern part being within the Griffeen River

catchment. Both are tributaries of the Liffey. There are a number of drainage ditches on site which drain towards Main Street, enter a culvert under the street which feeds a large formal pond in the grounds of The Old Glebe. The status of the Griffeen Lower is bad and the overall status of the Liffey Lower is moderate. Apart from the creche the surface water network will not connect to any Graydon surface water infrastructure. There are surface water sewers located in the Athgoe Road. A pond was identified in the LAP in the south western part of the main residential parcel but no pond was present on review, though there does appear to be a depression in this area based on the topography. There is some evidence of an overland flow route.

- 12.9.4. Groundwater vulnerability varies greatly. Underlying aquifers are classified as ‘Locally important aquifer – Bedrock which is moderately productive only in local zones’. In terms of flood risk the site is in flood zone C i.e. low risk of flooding. The Liffey \_170 surface waterbody has a moderate status and is at risk of not achieving good status by 2027.

#### Potential Effects

- 12.9.5. The EIAR identifies the potential for a range of environmental effects on water, hydrogeology, and hydrology. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.5. Minor effects are not identified, except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.5 – Environmental Effects on Water, Hydrogeology and Hydrology

Project phase	Potential effects
Do-nothing	If the proposed development does not proceed there would be <i>no additional impact</i> on the local water systems. The current rate of surface water run-off would continue to operate. Groundwater status would also remain unchanged.
Construction	Contaminated surface water runoff into watercourses is likely to have a <i>negative temporary moderate effect</i> .  Heavy rain fall or a high level of ground water could produce ponding in open trenches. Discharge of this pumped from excavations to existing drainage ditches could compromise the

	<p>capacity of upstream networks and as such cause flooding. It is likely this effect would have a <i>negative, temporary, moderate effect</i>.</p> <p>Discharge of wash water from concrete trucks/vehicle wheel wash water could contaminate the groundwater having a <i>temporary, short term, adverse moderate effect</i>.</p>
Operation	The likely effect of contamination risks arising from the proposed foul pumping station on groundwater or surface water is <i>moderate temporary and adverse</i> .
Decomissioning	Not referenced.
Cumulative	The overall effect is expected to be <i>neutral</i> .

#### Mitigation

12.9.6. Mitigation measures are set out in sub-section 6.6. It is stated that the design and layout is aimed at maximising SuDS features and protecting watercourses. In relation to construction phase mitigation the CEMP is referenced. SuDS is referenced in terms of the operational phase.

#### Residual Effects

12.9.7. Residual effects are predicted to be imperceptible.

#### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

12.9.8. I have examined, analysed, and evaluated chapter 6 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of water, hydrogeology, and hydrology. Hydrology issues specific to the WFD are addressed in section 14 of this report.

12.9.9. Notwithstanding the provisions of the remainder of this 'Analysis, Evaluation and Assessment' sub-section, generally speaking I consider that the mitigation measures outlined within the chapter are standard surface water measures sufficient to reduce impacts to a non-significant level. I am also satisfied that there would be no significant cumulative adverse impacts.

12.9.10. There are three hydrology related aspects of the proposed development that require further evaluation on foot of submissions and observations received and the planning authority's Chief Executive Report dated 11<sup>th</sup> August 2022. I address these as follows.

Frank Kerins Submission

12.9.11. The submission has been summarised in section 8 of this report. It is proposed to discharge surface water from four of the identified five surface water catchments on the main residential parcel of the site to an existing drainage ditch. This ditch is piped underneath Main Street and into the curtilage of The Old Glebe. Part of previous works to the surface water network within the curtilage was provided as a short-term measure and part of it is private. Most of the surface water drains into an ornamental pond and overflow discharges into drains and eventually the Liffey. The submission states the developer 'does not have the consent of Frank Kerins to discharge surface water from the development via private surface water drains at rear of The Old Glebe, which are not under the control of South Dublin County Council' (page 7). The submission also states that Mr. Kerins 'will not allow surface water disposal from the proposed development enter the private drains within the curtilage of The Old Glebe and if necessary, will seek a Judicial Review of any decision to do so ...'

12.9.12. Although the EIAR chapter acknowledges the downstream surface water network (section 6.3.2) including the culvert under Main Street and the pond to the rear of The Old Glebe, there is no reference to part of this involving private drains.

12.9.13. I consider it important to draw the Board's attention to three planning applications relevant to the issue of surface water disposal. One (SD18A/0363 / ABP-304908-18) was decided prior to the submission of this SHD planning application and two (SHD23A/0136 and LRD23A/0011 / ABP-319500-24) have been decided since the submission of this SHD planning application and will inform the Board of how this matter has progressed since this SHD planning application was made. All planning application documentation referred to is publicly available on the planning authority's website.

*SD18A/0363 / ABP-304908-18*

12.9.14. Permission was sought in 2018 for 22 houses adjacent to the north of the site (now St. Finian's Way). It was granted by SDCC. The observer applied for leave to appeal on the grounds that it may give rise to flooding and fish kill at The Old Glebe. Leave to

appeal was granted (ABP-304639-19) because the development would differ materially from the development as set out in the application by reason of condition number 1 and this condition would materially affect the applicant's enjoyment of the land. As part of the appeal process an alternative route of surface water disposal was used whereby the surface water would discharge to an alternative system on Main Street. The Inspector's report considered that this would address the appellant's concerns and cited it as recommended Condition 3. Although the Board's relevant condition (Condition 4) did not explicitly require it, the compliance correspondence between the developer and SDCC show that this alternative route was used.

*SD23A/0136*

- 12.9.15. Permission was sought in 2023 for, inter alia, 48 duplex apartments in four blocks in the south eastern area of the site subject of the current application. Surface water was to outfall to the drainage ditch and flow in a northerly direction to the pond to the rear of The Old Glebe and ultimately by way of other drainage ditches within the Liffey catchment. A submission was made on file by the observer which referenced the St. Finian's Way application and also an application for Lidl (SD22A/0312) where similar surface water concerns were raised and addressed.
- 12.9.16. Further information was sought. Surface water issues comprised items 2 and 3 of the request. As part of the further information response a new surface water pipe to an outfall on Hazelhatch Road was provided. Page 5 of the Response to Further Information document states "It is noted that the planning authority are currently undertaking a surface water study for Newcastle including a potential new outfall on Hazelhatch Road. Therefore, it was agreed with South Dublin County Council to include a new surface water pipe to the outfall on Hazelhatch Road as part of the proposed development. The construction of the outfall will be undertaken in conjunction with South Dublin County Council to improve the surface water capacity in the Newcastle area and serve the area zoned development ... The new outfall location for the subject site (and also proposed as part of the LRD planning application), is proposed in response to concerns raised with the drainage outfall to the north through the Old Glebe'.
- 12.9.17. Condition 2 of the subsequent grant of permission required the developer to submit, for written approval, inter alia, detail of a new surface water pipe to the outfall on

Hazelhatch Road or as otherwise agreed. A compliance submission dated 14<sup>th</sup> April 2024 stated 'the developer will deliver a new surface water pipe to the outfall on Hazelhatch Road in conjunction with South Dublin County Council' and enclosed a Technical Note. After an initial non-compliant submission SDCC issued a letter dated 20<sup>th</sup> November 2024 stating that the submission dated 25<sup>th</sup> September 2024 in relation to Condition 2 was satisfactory.

*LRD23A/0011 / ABP-319500-24*

- 12.9.18. Permission was sought in 2023 for a LRD application comprising 131 residential units and ancillary works on much of the site subject of this SHD application. Section 3.1 of the Infrastructure Design Report dated October 2023 stated 'The majority of the site currently drains to an existing drainage ditch within the site which flows to a pond to the rear of the Old Glebe on Main Street and ultimately follows an undefined network of drainage ditches through agricultural lands within the River Liffey catchment. A number of issues have been highlighted with the pipework and pond at the Old Glebe by the property owner and SDCC ... The existing pipework on Hazel Hatch is in poor condition and does not have adequate capacity for the outflow from the proposed development. A meeting was held with SDCC to discuss the outfall from the site. SDCC are currently undertaking a surface water study for Newcastle including a potential new outfall on Hazelhatch Road. Therefore, it was agreed to include a new surface water pipe to the outfall on Hazel Hatch road as part of the proposed development. The construct of the outfall will be undertaken in conjunction with SDCC'. The site boundary for the LRD application includes the pipework on Hazelhatch Road.
- 12.9.19. Surface water issues formed part of a further information request and a response to same was provided. Permission was granted by SDCC. A third-party appeal was made to the Board, unrelated to surface water, and permission was granted. Condition 4 related to surface water, including a new surface water pipe to the outfall on Hazelhatch Road or as otherwise agreed with the planning authority. A partially compliant compliance submission in relation to Condition 4 was provided to SDCC as per a SDCC letter dated 5<sup>th</sup> March 2025.

## *Assessment*

- 12.9.20. Having regard to the foregoing it is clear that on-site circumstances and planned surface water infrastructure relevant to the subject site have evolved since the SHD application was made, submissions and observations received, and the Chief Executive's Report was prepared. The applicant, through the two extant permissions on site, has indicated a willingness to provide or to be involved in the provision of an alternative surface water network to service this landholding. I consider it reasonable to conclude, on foot of the recent planning history, that disposal of surface water to the drainage ditch on site, as proposed, given the concerns raised in the third party submission and the imminent provision of a new surface water pipe along the Athgoe and Hazelhatch Roads, would not be appropriate nor would it be in accordance with the proper planning and sustainable development of the area.
- 12.9.21. A substantial amount of additional documentation would be required to amend the surface water disposal aspect of this proposed SHD application from disposal to the existing ditch to construction of a new pipeline along the public road. However, seeking further information and the recirculation of same to the relevant parties is not provided for under the relevant SHD legislation. I do not consider that it would be appropriate to address this issue of revising the method of surface water disposal by way of a limited agenda oral hearing as provided for under section 18 of the Planning & Development (Housing) Residential Tenancies Act, 2016, because it would require a significant and fundamental material alteration to the SHD planning application as originally submitted to the Board, works are already ongoing on site under different planning permissions, and there are other unrelated substantive concerns with the proposed development as set out in my reasons for refusal.
- 12.9.22. The third party submission raises issues in relation to the short-term nature of the drainage solution on the north side of Main Street, the use of the private drain (which could be considered under section 34(13) of the Planning & Development Act, 2000 (as amended)<sup>19</sup>), and the impact on the surface water network (specifically the pond to the rear of The Old Glebe). As regards the last point, I note that mitigation measures as set out in the chapter, and elsewhere in the documentation, address the general

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<sup>19</sup> A person shall not be entitled solely by reason of a permission under this section to carry out any development.

issue of contamination of surface water runoff from the site. It is clear from both the EIAR chapter and the applicant's submission that the manner of surface water discharge and its downstream network is not typical. I consider that there are issues of concern that the EIAR has not examined, in particular the short-term nature of the downstream drainage solution and the use of a private drain. On the basis of the information on file there is an absence of certainty that surface water can be appropriately disposed of as proposed, and a more appropriate option has evolved since the application was submitted.

- 12.9.23. Similar to the provisions of paragraph 12.9.21, addressing this issue of downstream drainage by seeking further information and the recirculation of same to the relevant parties is not provided for under the relevant SHD legislation. As with the alternative method of surface water disposal that has emerged since this SHD application was made I do not consider that it would be appropriate to address this issue by way of a limited agenda oral hearing as provided for under section 18 of the Planning & Development (Housing) Residential Tenancies Act, 2016, given the unrelated substantive concerns with the proposed development as set out in my reasons for refusal. I consider the absence of a robust examination of the downstream surface water network is a deficiency in this application, given the issues set out in the third-party submission, and I consider that this could result in a significant adverse surface water impact. I consider that this should be cited in the reasoned conclusion of the EIAR and I consider that permission should be refused on this basis. The alternative method of surface water disposal that has emerged since this application was received could address this issue but I consider that would be more appropriately addressed by way of a separate planning application given the scale of the changes it would require to this planning application.

#### *Conclusion*

- 12.9.24. I recommend permission be refused on the basis that it has not been demonstrated to the satisfaction of the Board that the proposed method of surface water disposal can be carried out without undue adverse impact downstream of the subject site given the nature of previous short-term works to the network and that it is stated that part of the surface water discharge network requires the use of private drains which the applicant does not have permission to use. The development could result in a significant adverse surface water impact, based on the information on file. A more appropriate



method of surface water disposal appears to be feasible and to permit the proposed development on the basis of the information on file would be contrary to the proper planning and sustainable development of the area.

#### IFI Observation

- 12.9.25. The IFI observation relates primarily to hydrology. The provisions of section 13 (Appropriate Assessment (AA) Screening) and section 14 (Water Framework Directive (WFD)) should also be taken into consideration in relation to this.
- 12.9.26. The observation welcomes the use of SuDS, but it outlines in-combination concerns. A number of bullet points are set out with mitigation recommendations. The application documentation provides for, among other documents, both an EIAR and CEMP which contain a number of mitigation measures related to surface water and the avoidance of contaminated runoff entering the surface water system. Some measures outlined by IFI e.g. assignment of a suitably qualified person to ensure all environmental mitigation measures are implemented and appropriate on-going operational stage maintenance, are included in these document's mitigation measures. Notwithstanding, should permission be granted appropriate conditions could be included.
- 12.9.27. I do not consider that there is any issue raised in the IFI observation that is not addressed within the application documentation or cannot be appropriately conditioned should permission be granted.

#### Internal SDCC Public Realm Report

- 12.9.28. This report outlines a number of concerns about the surface water/SuDS proposals including that underground attenuation tanks have been proposed which the Council does not approve of where the full natural potential of the site to manage surface water runoff has not been explored, and even then, the least favourable place is beneath public open space. It is stated that there is a lack of SuDS strategy, and that the landscape strategy does not integrate SuDS.
- 12.9.29. I note that the applicant has justified the use of underground attenuation tanks in sub-section 3.2.1 of the Infrastructure Design Report as follows; 'Where possible, attenuation facilities have been designed as above ground storage in order to maximize the use of SuDs and limit the requirement of underground tanks to promote biodiversity ... Where design constraints did not allow for open ponds, attenuation

facilities will store up to the 30-year critical storm in underground stormtech attenuation systems ...'

- 12.9.30. The use of SuDS is promoted throughout the SDCDP 2022-2028 e.g. Policy GI4 and its associated objectives. Although the Public Realm Report outlines a number of issues, I note that the Water Services Report, in relation to surface water, has no objection subject to two relatively minor conditions. Section 3.2.1 of the applicant's Infrastructure Design Report refers to provision of open ponds, detention basins, swales, tree pits, and green roofs to the apartment buildings. I am satisfied that SuDS has been appropriately taken into consideration in the layout and design of the proposed development and would not materially contravene the SDCDP 2022-2028.
- 12.9.31. In addition, although the planning authority recommended a refusal of permission to the Board, neither reason for refusal related to SuDS or landscaping issues.
- 12.9.32. Should permission be granted I consider a compliance condition could be attached to the effect that revised SuDS details/landscaping layout be submitted for the approval of the planning authority, within the context of the permitted roads layout and building footprints. I do not consider that a refusal of permission is warranted on this issue.

#### **Conclusion: Direct and Indirect Effects (Water, Hydrogeology and Hydrology)**

- 12.9.33. Having regard to my examination of environmental information in respect of water, hydrogeology and hydrology, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11th August 2022, the submissions and observations received, and my site inspection, I consider that, based on the information on file, the main significant direct and indirect effects on water, hydrogeology and hydrology after the application of mitigation measures, are:
- Indirect, significant adverse impact on the downstream surface water network having regard to limitations set out in a third-party submission such as the nature of previous short-term works to the network and the use of private drains.

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

#### **Issues Raised**

- 12.10.1. None.

## Examination of the EIAR

### Context

12.10.2. Chapter 7 (Air Quality and Climate) assesses the likely air quality and climate impacts associated with the proposed development. Appendix C to the EIAR comprises ambient air quality standards and a Dust Management Plan. The legislation and guidelines the chapter was prepared having regard to are identified. Criteria for rating impacts to air are set out in terms of air quality and dust deposition. Detailed assessments of construction stage traffic have been scoped out for both air quality and climate as the proposed development does not meet the relevant criteria. A detailed operational phase methodology for air quality and climate is set out which follows appropriate procedures.

### Baseline

12.10.3. The receiving environment is described in sub-section 7.3 of the EIAR. Meteorological data from Casement Aerodrome is used and baseline air quality for the Zone A (Dublin) area, in terms of the Environmental Protection Agency (EPA) air quality monitoring zones, is outlined. The overall sensitivity of the area to dust soiling impacts is high. The worst case sensitivity of the area to human health is low. The climate baseline is summarised.

### Potential Effects

12.10.4. The EIAR identifies the potential for a range of environmental effects on air quality and climate. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.6. Minor effects are not identified, except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.6 – Environmental Effects on Air Quality and Climate

Project phase	Potential effects
Do-nothing	Identified impacts of fugitive dust and particulate matter emissions and emissions from equipment and machinery will not occur. The ambient air quality at the site will remain as per the

	baseline. This scenario can be considered <i>neutral</i> in terms of both air quality and climate.
Construction	<p><u>Air Quality</u></p> <p>Dust impacts are predicted to be <i>short-term negative and imperceptible</i>.</p> <p><u>Climate</u></p> <p>Impact on climate is <i>imperceptible, neutral and short-term</i>.</p>
Operation	<p><u>Air Quality</u></p> <p>The impact of the proposed development (traffic) on ambient air quality is <i>long-term, localised, neutral and imperceptible</i>.</p> <p><u>Climate</u></p> <p>The impact on climate will be <i>long-term, localised, neutral and imperceptible</i>.</p>
Decomissioning	Sub-section 7.9 states that reinstatement is not applicable.
Cumulative	None predicted in the construction phase. The operational phase impact to air quality and climate is <i>long-term neutral and imperceptible</i> .

### Mitigation

- 12.10.5. Mitigation measures for the construction phase are set out in the Dust Management Plan, which have been incorporated into the CEMP. Impacts to climate are predicted to be imperceptible but good practice measures will be incorporated. No operational phase mitigation is proposed, though the development will be a Nearly Zero Energy Building(s) with measures incorporated to achieve a more energy efficient design.

### Residual Effects

- 12.10.6. With the implementation of the dust mitigation measures, the likely effect from the construction phase will be localised, imperceptible, negative and short-term. The likely effect to air quality as a result of increased traffic volumes during the operational phase is localised, negative, imperceptible and long-term.

12.10.7. Human health impact will be imperceptible. The likely effect to climate is considered long-term, negative and imperceptible.

#### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

12.10.8. I have examined, analysed, and evaluated chapter 7 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of air quality and climate. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on air quality and climate, as a consequence of the proposed development, have been identified.

12.10.9. There is reference on page 7-11 to a proposed greenway. This appears to be a typographical error and is the only page on which this is referred to.

12.10.10. I consider that the mitigation measures outlined within the chapter are sufficient to reduce impacts to a non-significant level. This is a standard residential development. I am also satisfied that there would be no significant cumulative adverse impacts.

#### **Conclusion: Direct and Indirect Effects (Air Quality and Climate)**

12.10.11. Having regard to my examination of environmental information in respect of air quality and climate, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11th August 2022, the submissions and observations received, and my site inspection, I do not consider that there are any significant direct or indirect air quality and climate effects.

### **12.11. Material Assets – Traffic and Transportation**

#### **Issues Raised**

12.11.1. An issue was raised in a submission relating to the link to St. Finian's Way. This has been addressed in sub-section 11.7.

#### **Examination of the EIAR**

##### Context

12.11.2. Chapter 10 (Material Assets – Traffic and Transportation) assesses the likely effects of the proposed development in terms of vehicular, pedestrian and cycle access. Appendix H to the EIAR comprises a Mobility Management Plan dated June 2022. Information within the chapter has been extracted from the TTA Report. Consultations

were carried out with the Roads Dept. of SDCC. It is stated that the approach to the assessment accords with policy and guidance both at national and local levels. A brief methodology is outlined which includes that classified junction traffic counts were undertaken.

#### Baseline

- 12.11.3. The receiving environment is described in sub-section 10.5 of the EIAR. This includes the local road network, baseline traffic data based on surveys at eleven junctions, pedestrian and cycle facilities, and public transport accessibility and capacity. An (undated) Public Transport Capacity Assessment has been submitted with the application.

#### Potential Effects

- 12.11.4. The EIAR identifies the potential for a range of environmental effects on traffic and transportation. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.7. Minor effects are not identified, except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.7 – Environmental Effects on Material Assets – Traffic and Transportation

Project phase	Potential effects
Do-nothing	In the absence of the proposed development, the performance of existing junctions will be affected by the impact caused by committed development and forecast background network traffic growth. Nevertheless, the subject lands are zoned, a development of a similar nature would likely be progressed, and it is anticipated the impact would be similar to this proposal.
Construction	Table 10.9 summarises the potential short-term impacts for HGV traffic, dust generation, noise and vibration, and parking. The impacts of the first three are <i>negative and not significant</i> while the impact of parking is <i>neutral and imperceptible</i> .
Operation	Table 10.17 summarises the potential long-term impact for traffic, the pedestrian and cycle networks, and public transport. There

	<p>will be an overall <i>negative and not significant</i> impact on traffic and public transport. In terms of traffic there would a sub-threshold impact on the surrounding road network at all key off-site junctions. The above threshold impacts at the eastern and western site junctions is because of the existing low flows and because diverted base traffic flow will re-route through these junctions following the introduction of a through route that avoids the town centre.</p> <p>There will be a <i>significant positive</i> impact to the pedestrian and cycling network due to the proposed improvements in cycle and pedestrian infrastructure being proposed.</p>
Decomissioning	Reinstatement is not applicable.
Cumulative	Committed development, growth factors, and base traffic flows were incorporated into the analysis to assess the cumulative impacts.

#### Mitigation

12.11.5. Mitigation measures are set out in sub-section 10.8. For the construction phase the CEMP is referenced and it is stated that a Construction Traffic Management Plan will be submitted to SDCC for approval. Measures cited include on-site staff parking, adequate signposting, haul routes, and wheel washes. A Mobility Management Plan has been prepared for the operational stage and five car sharing spaces are proposed.

#### Residual Effects

12.11.6. The residual construction stage effects are direct negative short-term and not significant.

12.11.7. Residual operational stage effects on traffic and public transport are negative and imperceptible. Effects on the pedestrian and cycle networks are positive and significant.

### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

- 12.11.8. I have examined, analysed, and evaluated chapter 10 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of traffic and transportation. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on air quality and climate, as a consequence of the proposed development, have been identified.
- 12.11.9. At this stage some of the information presented is dated e.g. the Graydon development has been constructed, there is reference to a 2024 Opening Year and the 2016 Census, and the chapter refers to the now expired SDGDP 2016-2022 and the Newcastle LAP 2012 (as extended). In addition, the weekday traffic count was only undertaken on one day (Thursday 31<sup>st</sup> March 2022) which I do not consider to be a robust baseline.
- 12.11.10. Notwithstanding, I note the residentially zoned nature of the site and the fact that site development works are underway on foot of more recent planning permissions. The Roads Department report accompanying the Chief Executive's Report dated 11<sup>th</sup> August 2022 did not raise concerns in relation to the proposed development.
- 12.11.11. The applicant considers that the improvement to the footpath and cycle networks are a significant positive element of the proposed development and I agree that the provision of these elements extends the existing infrastructure within the town and is a beneficial element of the proposed development.
- 12.11.12. I consider that the mitigation measures outlined within the chapter are sufficient to reduce impacts to a non-significant level. I am also satisfied that there would be no significant cumulative adverse impacts.

### **Conclusion: Direct and Indirect Effects (Material Assets – Traffic and Transportation)**

- 12.11.13. Having regard to my examination of environmental information in respect of traffic and transportation, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11<sup>th</sup> August 2022, the submissions and observations received, and my site inspection, I consider that the main significant direct and indirect effects on traffic and transportation, after the application of mitigation measures, are:



- Direct, positive, significant impact for traffic and transportation due to the increased pedestrian and cycling infrastructure, connectivity, and permeability which would be provided.

## **12.12. Material Assets – Waste Management**

### **Issues Raised**

12.12.1. None.

### **Examination of the EIAR**

#### Context

12.12.2. Chapter 11 (Material Assets – Waste Management) assesses the likely impact of the proposed development from the waste generated. Appendix E to the EIAR contains a Resource & Waste Management Plan (RWMP) and an Operational Waste Management Plan (OWMP), both dated 11<sup>th</sup> June 2022. It is stated that the assessment of the impacts was carried out taking into account the methodology specified in relevant guidance documents. A desktop review was carried out and relevant legislation, guidance, and terminology summarised. The provisions of Chapter 5 (Land and Soils) are relevant.

#### Baseline

12.12.3. The receiving environment is described in sub-section 11.3 of the EIAR. Relevant documentation is referenced. SDCC no longer operate any municipal waste landfills though there are a number of waste permitted and licenced facilities in the region.

#### Potential Effects

12.12.4. Sub-section 11.4 outlines the relevant characteristics of the proposed development in both the construction and operational phases. The EIAR identifies the potential for a range of environmental effects on waste management. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.8. Minor effects are not identified, except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.8 – Environmental Effects on Material Assets – Waste Management

Project phase	Potential effects
Do-nothing	There would be a <i>neutral effect</i> on the environment in terms of waste.
Construction	<p>The generation of waste materials e.g. excavation, construction, packaging, and food waste, is likely to lead to litter and pollution with an <i>indirect short-term significant negative effect</i>.</p> <p>The use of non-permitted waste contractors, or unauthorised/non-permitted/licensed waste facilities, could give rise to inappropriate management of waste or inappropriate reuse, recycling, recover or disposal of waste with a likely <i>significant negative effect</i>.</p> <p>Incorrect classification and segregation of excavated material is likely to have a <i>short-term significant negative effect</i>.</p>
Operation	<p>Use of non-permitted waste contractors or unauthorised facilities could lead to inappropriate or improper waste management with <i>long-term significant and negative effects</i>.</p> <p>Improper storage could lead to litter/pollution with a <i>significant negative effect</i>.</p>
Decomissioning	The proposed development may be decommissioned in the future. A demolition or refurbishment plan will be formulated to ensure no waste nuisance occurs at nearby sensitive receptors.
Cumulative	<p>The construction stage effect will be <i>short-term, not significant and neutral</i>.</p> <p>The operational stage effect will be <i>long-term, imperceptible and neutral</i>.</p>

### Mitigation

12.12.5. Mitigation measures are set out in sub-section 11.6 of the EIAR. The concept of the ‘waste hierarchy’ is employed when considering all mitigation measures. The RWMP

has been prepared for the construction phase and the OWMP for the operational phase.

#### Residual Effects

- 12.12.6. Residual effects are predicted as imperceptible and neutral in both the construction and operational phases.

#### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

- 12.12.7. I have examined, analysed, and evaluated chapter 11 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of waste management. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on waste management, as a consequence of the proposed development, have been identified. I note that extensive earthworks have already been carried out on site on foot of recent planning permissions. In addition, the National Waste Management Plan for a Circular Economy 2024-2030 has been introduced since the application was received by the Board.

- 12.12.8. Notwithstanding, I consider that the mitigation measures outlined within the chapter are sufficient to reduce impacts to a non-significant level. This is a standard residential development. I am also satisfied that there would be no significant cumulative adverse impacts.

#### **Conclusion: Direct and Indirect Effects (Material Assets – Waste Management)**

- 12.12.9. Having regard to my examination of environmental information in respect of waste management, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11th August 2022, the submissions and observations received, and my site inspection, I do not consider that there are any significant direct or indirect waste management effects.

#### **12.13. Material Assets – Utilities**

##### **Issues Raised**

- 12.13.1. None.

## Examination of the EIAR

### Context

12.13.2. Chapter 12 (Material Assets – Utilities) relates to the material assets of foul sewerage, surface water drainage, water supply, and utilities (ESB, telecoms, and gas). Appendix F to the EIAR contains utilities maps. The methodology followed accords with EPA documentation and information on built assets was assembled from a desktop review, consultations, and a site walkover.

### Baseline

12.13.3. The receiving environment is described in sub-section 12.3 of the EIAR. Reference is made to existing stormwater infrastructure (the site is drained by drainage ditches, there are sewers in the Athgoe Road, and the creche will use existing Graydon infrastructure), existing foul infrastructure (public infrastructure in the vicinity and in Graydon), water (mains along Athgoe Road), ESB (medium voltage overhead power lines traverse the south east corner), broadband (Eir and Virgin are in the area and both will be brought on site), gas (a gas map has been obtained but there will be no gas), and telecommunications (existing mobile reception is poor).

### Potential Effects

12.13.4. The EIAR identifies the potential for a range of environmental effects on utilities. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.9. Minor effects are not identified, except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.9 – Environmental Effects on Material Assets – Utilities

Project phase	Potential effects
Do-nothing	No predicted impacts should the proposed development not proceed.
Construction	Damage to existing surface water infrastructure resulting in possible contamination of systems/watercourses with construction related materials would be <i>temporary short term and moderate</i> .

	Improper discharge of foul drainage from the contractor's compound could contaminate groundwater or watercourses with <i>short-term moderate effects</i> .
Operation	The inclusion of telecommunications infrastructure at roof level of one of the apartment buildings will improve local mobile phone reception which is a <i>moderate positive effect</i> .
Decomissioning	Reinstatement of any excavations are to be carried out in accordance with the relevant asset provider's requirements and the requirements of SDCC.
Cumulative	There are no predicted cumulative impacts arising.

### Mitigation

12.13.5. Mitigation measures are set out in sub-section 12.6 of the EIAR. Construction phase mitigation includes reference to the CEMP and sewers to Irish Water standards. There are no notable operational phase measures.

### Residual Effects

12.13.6. Implementation of the construction phase mitigation measures will ensure that any residual effects will be short term.

12.13.7. In the operational phase the volume of potable water for treatment and use will increase. The demand on power supply, gas supply and telecommunications supply will all also increase.

### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

12.13.8. I have examined, analysed, and evaluated chapter 12 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of utilities. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on utilities, as a consequence of the proposed development, have been identified.

12.13.9. The applicant has outlined surface water proposals which relate to discharge to the existing drainage ditch on site. As per sub-section 12.9 (Water, Hydrogeology and Hydrology) alternative surface water discharge options are to be provided on Athgoe

Road. I note that the planning application proposes telecommunications infrastructure on apartment building B to improve local mobile phone coverage. There appears to be a typographical error in the residual impacts paragraph of the EIAR, paragraph 12.8.2. It is stated that the demand on the gas supply will increase due to the proposed development. However it is stated elsewhere in the chapter that there will be no gas supply on site e.g. sub-sections 12.3.6 and 12.4.5.

- 12.13.10. Notwithstanding, I consider that the mitigation measures outlined within the chapter are sufficient to reduce impacts to a non-significant level. This is a standard residential development. I am also satisfied that there would be no significant cumulative adverse impacts.

#### **Conclusion: Direct and Indirect Effects (Material Assets – Utilities)**

- 12.13.11. Having regard to my examination of environmental information in respect of utilities, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11th August 2022, the submissions and observations received, and my site inspection, I do not consider that there are any significant direct or indirect utilities effects.

### **12.14. Cultural Heritage – Archaeology**

#### **Issues Raised**

- 12.14.1. The submission from the DHLGH contains an 'Archaeology' sub-heading. The presence of archaeology in the area is noted as is the content of this EIAR chapter. A detailed condition relating to archaeological excavation, monitoring, and an exclusion buffer zone is recommended.

#### **Examination of the EIAR**

##### Context

- 12.14.2. Chapter 13 (Cultural Heritage (Archaeology)) is the relevant EIAR chapter. Appendix A to the EIAR contains a number of reports and assessments: a Geophysical Survey Report dated May 2018, an Archaeological Assessment dated March 2022, SMR/RMP<sup>20</sup> Sites Within the Surrounding Area, Legislation Protecting the

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<sup>20</sup> Sites and Monuments Record / Record of Monuments and Places

Archaeological Resource, Impact Assessment and the Cultural Heritage Resource, and Mitigation Measures and the Cultural Heritage Resource.

- 12.14.3. The assessment methodology was undertaken in four phases: a paper survey, a field inspection, a geophysical survey, and a programme of archaeological testing carried out based on the results of the geophysical survey.

#### Baseline

- 12.14.4. The receiving environment is described in sub-section 13.4 of the EIAR. The northern two-thirds of the development area is located within the zone of archaeological potential associated with the medieval settlement of Newcastle (RMP DU020-003008). A further ten archaeological sites are located within 500 metres, with the nearest of these consisting of a castle tower-house (DU020-003007), located approx. 22 metres to the southwest.
- 12.14.5. A description of the area between 8000BC and 1800 is set out. A geophysical survey was undertaken in 2018. A number of potential archaeological anomalies were identified and a programme of archaeological testing was conducted in 2021. Four areas of archaeological significance were identified (AA1-AA4). The western part of the development area contained a number of features of probable archaeological origin, including an industrial kiln, walls, ditches, metalled surfaces and a pit (AA1). Given the proximity of the test area to the tower house DU020-003007 and the recovery of a number of medieval pottery sherds, it is reasonable to assume that the majority of the features identified date from the medieval period and are associated with the tower house complex. In the northern area of the site, the most prominent feature identified was a cereal drying kiln (AA2). A pit of probable archaeological significance was identified in the centre of the site with a possible associated linear ditch of unknown date (AA3). In the eastern area, the only feature of archaeological significance identified was a large burnt mound spread (AA4).
- 12.14.6. Previous archaeological fieldwork, on site and in the surrounding environs, is summarised. A cartographic analysis is provided, as well as aims and objectives of the SDCDP 2016-2022, and brief references to topographical files, aerial photographic analysis, cultural heritage, place name analysis, and field inspection.

## Potential Effects

- 12.14.7. The EIAR identifies the potential for a range of environmental effects on archaeology. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.10. Minor effects are not identified, except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.10 – Environmental Effects on Cultural Heritage – Archaeology

Project phase	Potential effects
Do-nothing	There would be <i>no negative impact</i> on the archaeological or cultural heritage resource.
Construction	<p>AA1-AA4 will be subject to <i>direct, negative, significant effects</i> due to ground disturbances.</p> <p>Ground disturbances may have a <i>direct negative impact</i> on the ruined structures/recorded tower house due to associated vibration affects and any such affects have the potential to be <i>very significant (negative)</i>.</p> <p>Small or isolated archaeological features may survive outside of the footprint of excavated test trenches. Groundworks may have a <i>direct negative impact</i> on these remains. Impacts may range from <i>moderate to significant</i>, depending on the nature, extent and significance of any archaeological remains.</p>
Operation	<p>A small park (Tower Park) will be established to the north of the tower house. There will be an <i>indirect significant negative effect</i> on the setting of the tower house, due to the residential units, park, and access road.</p> <p><i>Indirect moderate positive impact</i> on the fossilized burgage plot due to the incorporation of the boundary in the development, which will lead to its ongoing conservation and protection.</p>
Decomissioning	Reinstatement is not applicable.



Cumulative	<i>No cumulative impacts</i> (from surrounding permitted or proposed developments) are predicted as all archaeological remains will be preserved by record.
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### Mitigation

12.14.8. Mitigation measures are set out in sub-section 13.8 of the EIAR.

12.14.9. In terms of the construction phase, it is acknowledged that, while the preservation in-situ of archaeological remains is best practise, the required layout of the development means that the archaeological features and deposits (AA1-4) will be subject to archaeological preservation by record, carried out under licence. The noise and vibration chapter has predicted that vibration levels during construction are not likely to be such that any damage would occur to built heritage structures. The chapter proposed mitigation through monitoring. All topsoil stripping will be subject to archaeological monitoring by a suitably qualified archaeologist.

12.14.10. In terms of operational phase mitigation, sub-section 13.8.2.1 of the EIAR states that a full landscape record of the tower house, which records its current condition and setting, adjacent to the proposed development, will be carried out prior to the commencement of construction and operation of the development.

### Residual Effects

12.14.11. In terms of archaeology, following implementation of mitigation measures, no significant negative impacts are predicted. There will be a residual indirect moderate negative impact on the recorded tower house, due to the affects the development will have on the setting of the structure.

### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

12.14.12. I have examined, analysed, and evaluated chapter 13 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of archaeology. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on archaeology, as a consequence of the proposed development, have been identified.

12.14.13. As extensive groundworks have already been carried out on site on foot of the current construction activities archaeological conditions on this application are a moot point.

Notwithstanding, while I consider that the mitigation measures outlined within the chapter are adequate in themselves, I consider that the Department's recommended archaeological condition should be included in the event of a grant of permission given the detail contained within it.

### **Conclusion: Direct and Indirect Effects (Cultural Heritage – Archaeology)**

12.14.14. Having regard to my examination of environmental information in respect of archaeology, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11th August 2022, the submissions and observations received, and my site inspection, I do not consider that there are any significant direct or indirect archaeology effects.

### **12.15. Cultural Heritage – Architectural Heritage**

#### **Issues Raised**

12.15.1. None.

#### **Examination of the EIAR**

##### Context

12.15.2. Chapter 14 (Cultural Heritage (Architectural Heritage)) is the relevant EIAR chapter. The assessment has been conducted under relevant legislation and planning frameworks and there is a range of relevant guidance, including in relation to the protection of architectural heritage. Research for the chapter was undertaken by way of a paper survey and a field inspection. The majority of heritage structures in the heart of the village are at such a distance from the site, with significant screening by buildings and vegetation, that there could be no possible effect on their character or setting arising from the proposed development, and hence these structures are not included in the assessment. Only one building in the village is included due to its visibility, St Finian's Roman Catholic Church.

##### Baseline

12.15.3. The receiving environment is described in sub-section 14.4 of the EIAR. There are nine protected structures in the village centre and in the vicinity of the site with twelve structures, including eight protected structures, included in the National Inventory of Architectural Heritage. The northern part of the application site lies within Newcastle

ACA. Newcastle Lodge (RPS no. 247, approx. 110 metres to the south on Athgoe Road), Newcastle Farm (RPS no. 238, approx. 15 metres to the south west on the opposite side of Athgoe Road), the tower house (RPS no. 241, in proximity to the south along Athgoe Road), and St. Finian's Roman Catholic Church (RPS no. 232, approx. 130 metres to the north east) are identified on figure 14.2 and are described in terms of their relationship to the site and the description of effects.

#### Potential Effects

- 12.15.4. The EIAR identifies the potential for a range of environmental effects on architectural heritage. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.11. Minor effects are not identified, except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.11 – Environmental Effects on Cultural Heritage – Architectural Heritage

Project phase	Potential effects
Do-nothing	There would be <i>no adverse effect</i> arising in relation to architectural heritage.
Construction	<i>No direct effects.</i>  There will be indirect effects on the settings of some structures. There would be a <i>moderate effect</i> on the setting of Newcastle Farm due to the works to the road and boundary. There would be a <i>significant effect</i> on the setting of the tower house due to the construction of houses and other works e.g. roads and landscaping.
Operation	<i>No direct effects.</i>  There will be indirect effects on some structures. There would be a <i>moderate effect</i> on the setting of Newcastle Farm due to the works to the road and boundary. There would be a <i>significant effect</i> on the setting of the tower house due to the construction of houses and other works.
Decommissioning	No reinstatement works are necessary.

Cumulative	<i>No cumulative effect</i> on architectural heritage is predicted.
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#### Mitigation

- 12.15.5. Chapter 8 (Noise and Vibration) predicted that the vibration levels during construction are not likely to be such that any damage would occur to built heritage structures. That chapter proposed mitigation through monitoring to ensure vibration levels do not exceed acceptable levels in the vicinity of built heritage structures. No mitigation is possible to reduce the indirect effect on the settings of Newcastle Farm, or the tower house.
- 12.15.6. No mitigation is required to reduce the indirect effect on the setting of Newcastle Farm at operational phase other than good quality design of the boundary to Athgoe Road. No mitigation is possible to reduce the indirect effects of the proposed development on the setting of the tower house other than the designed layout of the proposed development to keep houses back from the area immediately to the front of the tower house.

#### Residual Effects

- 12.15.7. For both construction and operational phases there will be a moderate residual indirect negative effect on the setting of Newcastle Farm and a significant residual indirect negative effect on the setting of the tower house.

#### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

- 12.15.8. I have examined, analysed, and evaluated chapter 14 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of built heritage. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on architectural heritage, as a consequence of the proposed development, have been identified.
- 12.15.9. I note the applicant's conclusion that the proposed development would result in a significant residual indirect negative effect on the setting of the tower house. Notwithstanding, the subject site is zoned for residential development and there is an onus on the relevant authorities to ensure an appropriate density is provided. In regard to mitigation, I acknowledge that the layout of the proposed development provides a limited set back from the structure by way of the small Towerhouse Park area and that

the proposed houses in this area are two-storey in scale, as opposed to three-storey duplex apartment blocks or three storey or higher apartment buildings. I consider that the proposed development is acceptable at this location, notwithstanding the impact on the tower house, and that the proposed development would not contribute to cumulative effects.

### **Conclusion: Direct and Indirect Effects (Architectural Heritage)**

12.15.10. Having regard to my examination of environmental information in respect of architectural heritage, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11th August 2022, the submissions and observations received, and my site inspection, I consider that the main significant direct and indirect effects on cultural heritage – architectural heritage, after the application of mitigation measures, is:

- Significant residual indirect negative effect on the setting of RPS no. 241 (Stone Castle (Ruin), Tower House Possible (RM)).

## **12.16. Landscape and Visual Impact**

### **Issues Raised**

12.16.1. None.

### **Examination of the EIAR**

#### Context

12.16.2. Chapter 9 (Landscape and Visual Impact Assessment) is the relevant EIAR chapter. Landscape and visual impact assessment (LVIA) is a means of appraising the likely significant direct and indirect effects the proposed development would have on the receiving environment in terms of quality of landscape – both physically and visually. Sources used to inform the chapter are identified. Landscape impacts are defined as changes in the fabric, character, and quality of the landscape as a result of the development. Visual impacts relate solely to changes in available views of the landscape and the effects of those changes on people viewing the landscape. The landscape and visual assessment methodology will be utilised in conjunction with a professional evaluation to determine the degree of impact. The methodology employed in the LVIA is set out on pages 9-4 and 9.5.

## Baseline

12.16.3. The receiving environment is described in sub-section 9.3 of the EIAR. The site is in the Newcastle Lowlands Landscape Character Area (LCA) of the Draft SDCDP 2022-2028 and in the SDCDP 2016-2022<sup>21</sup>. There are no protected relevant views or prospects. The burgage hedgerow system is referenced. Objectives relating to green infrastructure are outlined. Sixteen viewpoints (VPs) were selected as per figure 9.5.

## Potential Effects

12.16.4. The EIAR identifies the potential for a range of LVIA effects<sup>22</sup>. Likely significant or notable effects of the development, as identified in the EIAR, are summarised in Table 12.12. Minor effects are not identified, except where there is potential for significant impact interactions, cumulative effects, or where concerns have been expressed by parties to the application.

Table 12.12 – LVIA Effects

Project phase	Potential effects
Do-nothing	The primary effect would be that the impacts and effects identified would not directly occur.
Construction	<u>Landscape</u>  There will be <i>significant negative effects</i> on the existing landscape associated historic burgage hedgerows. Elsewhere, landscape impacts will be <i>slightly negative</i> due to the quality of the brownfield/fallow areas within the site. Burgage hedgerows will be retained. These hedges are of minimal arboricultural value, however the real value lies with their historical importance as burgage plot boundaries.  <u>Visual</u>  Visual impacts will be more acute than in the operational phase e.g. traffic, hoarding, cranes etc. The significance of effect on the

<sup>21</sup> As per paragraph 12.16.9 the site remains in the Newcastle Lowlands LCA under the adopted SDCDP 2022-2028 and no views or prospects that would affect the site have been introduced.

<sup>22</sup> The creche site was assessed as part of the Graydon application. As it was in an area which was under construction at the time of the submission of the application there were no receptors affected. It was not considered further in the chapter.

	sixteen VPs ranges from <i>imperceptible</i> (five) to <i>moderate</i> at two VPs, both adjacent to the north/north west of the main site parcel. Other effects are <i>slight</i> (two) and <i>not significant</i> (seven).
Operation	<p><u>Landscape</u></p> <p>Following construction, the main landscape impacts of the proposed development are associated with the change in land use. This is a <i>moderately negative impact</i>. Where medium sensitivity exists to the eastern portion of the site where the existing hedgerows are present, the retention and enhancement of these contributes towards a <i>moderately negative impact</i>.</p> <p><u>Visual</u></p> <p>Table 12.9 sets out the effects on the 16 VPs. The most significant effect is a <i>moderately negative impact</i> to two VPs (1 and 2 adjacent to the north west and north). Other effects include <i>not significant</i> (nine VPs), <i>slight negative</i> (two VPs), and an <i>imperceptible negative</i> effect (three VPs).</p>
Decomissioning	Not referenced.
Cumulative	Taken together (the proposed development, a since constructed extension to St. Finian's Way, and the other zoned lands), will result in <i>very significant change</i> to the landscape and visual environment. As this is in accordance with the LAP, the development is planned and orderly. Cumulative impacts of further development may result in visual impacts to existing sensitive receptors of varying degrees.

### Mitigation

12.16.5. Mitigation measures are set out in sub-section 9.7. Site hoarding and construction hours are referenced in terms of the construction phase. A comprehensive landscape architecture design is referenced for the operational phase, including retention of existing hedgerows associated with the historic landscape and burgage pattern.

### Residual Effects

- 12.16.6. The landscape impacts would overall be not-significant and negative, particularly considering the general low sensitivity of the landscape and the fact that the most significant hedgerows will be retained. The impact is primarily mitigated by the potential quality of the proposed public realm. The proposed planting will substantially increase the tree resource and tree quality in the area. Moderate positive landscape amenity impacts due to the provision of new parks and greenways would occur.
- 12.16.7. In the longer term, there will be some continuing moderately negative visual impacts to receptors immediately adjacent to the north, with not significant negative visual impacts to receptors to the west and south and some imperceptibly negative/neutral visual impacts to those further away. It is important to note that the proposed development is reflective of the existing and emerging development trends in the area in terms of massing and scale. The residual impacts on views is somewhat mitigated by proposed landscaping, resulting in a slight improvement in screening measures to the south, though not significantly enough to change the assessment.

### **Analysis, Evaluation and Assessment: Direct and Indirect Effects**

- 12.16.8. I have examined, analysed, and evaluated chapter 9 of the EIAR and all of the associated documentation, submissions, and observations on file in respect of landscape and visual impact. I am satisfied that the applicant's presented baseline environment is comprehensive and that the key impacts in respect of likely effects on landscape and visual impact, as a consequence of the proposed development, have been identified.
- 12.16.9. The subject site remains in the Newcastle Lowlands LCA under the SDCLP 2022-2028 and no views or prospects that would affect the site have been introduced in the current plan. The site is zoned for residential development and it is inevitable that any permitted development would have an impact on the landscape and visual amenity of the area, given the original/previous greenfield nature of the site.
- 12.16.10. The chapter indicates that the creche site was not considered as part of the assessment. I have no concern in this regard. The creche site is a fenced off brownfield area with two to four storey development in the vicinity. Development of an unused site would improve the visual amenity of that area.



- 12.16.11. The applicant identifies 16 VPs in figure 9.5. It is stated on page 9-14 that these VPs 'align with the verified views as completed by 3D Design Bureau (under separate cover)'. This is the Photomontages and CGI document dated June 2022. There are only ten VPs in this. Though some of the VPs correlate positionally, there is no consistency in the numbering protocol. However, EIAR sub-section 9.6.2.2 states that these (in the separate document) are VPs from public land and photographs from the other VPs are 'not included due to the impact of the development being on privately owned land and the potentially ensuing access issues. The impact from these viewpoints have been assessed by professional evaluation ...' I am satisfied with the VPs selected and I consider that the significance of effects expressed are reasonable, having regard to the zoned nature of the site.
- 12.16.12. While I note that the potential cumulative impacts, including all zoned land to the south of the site, are described as resulting 'in very significant change to the landscape and visual environment', given that the development does not result in significant change on its own merits, I do not consider it appropriate to cite this potential cumulative impact as a significant effect in the conclusion.
- 12.16.13. I note that the mitigation measures proposed are only of limited impact given the nature of the proposed development though, once matured, the landscaping is likely to have a notably positive visual impact effect.

#### **Conclusion: Direct and Indirect Effects (Landscape and Visual Impact)**

- 12.16.14. Having regard to my examination of environmental information in respect of landscape and visual impact, in particular the EIAR provided by the applicant, the Chief Executive's Report dated 11th August 2022, the submissions and observations received, and my site inspection, I do not consider that there are any significant direct or indirect landscape and visual impact effects.

#### **12.17. Interactions Between the Foregoing**

- 12.17.1. Though also referenced in the individual technical chapters, chapter 16 (Interactions of the Foregoing) of the EIAR highlights the significant interactions between environmental factors. Table 16.1 outlines a matrix showing the factors that interact with each other and sub-section 16.2 describes these.

12.17.2. I have considered the interrelationships between the various environmental factors and whether these may as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered both the embedded design and the mitigation measures to be put in place, I am satisfied that no residual risk of significant negative interaction between any of the environmental factors would arise and no further mitigation measures to those already provided for in the EIAR, or as conditions of any grant of permission, would arise. I am satisfied that in general the various interactions were accurately described in the EIAR.

#### **12.18. Vulnerability to Risks of Major Accidents and/or Disasters**

12.18.1. The EIAR contains a specific chapter in relation to this (Chapter 15 – Risk Management for Major Accidents and/or Disasters). Given the nature and extent of the proposed development i.e. a standard residential development, and the location on an edge of town area in south west Co. Dublin with similar existing and permitted development in the vicinity, no significant issue in this regard would be anticipated.

12.18.2. The EIAR states that, after mitigation, ‘there are no identified incidents or examples of major accidents and or natural disasters that present a sufficient combination of risk and consequence that would be likely to lead to significant residual impacts or environmental effects’.

#### **12.19. Reasoned Conclusion**

12.19.1. Having regard to the examination of environmental information contained above, in particular the EIAR and other supplementary information provided by the applicant, the Chief Executive’s Report dated 11<sup>th</sup> August 2022, the submissions and observations received, and my site inspection, it is considered that the main significant direct and indirect effects of the proposed development on the environment, with the implementation of the proposed mitigation measures, are as follows:

- significant, direct, positive impact for population, due to the substantive increase in the housing stock during the operational phase,
- significant, direct negative short-term noise effects arising for population in the vicinity of site works during the construction phase, which would be mitigated by a suite of appropriate construction phase management measures,

- significant, indirect adverse impact on the downstream surface water network having regard to limitations set out in a third-party submission such as the nature of previous short-term works to the network and the use of private drains,
- significant, direct, positive impact for traffic and transportation due to the increased pedestrian and cycling infrastructure, connectivity, and permeability which would be provided, and,
- significant residual indirect negative effect on the setting of RPS no. 241 (Stone Castle (Ruin), Tower House Possible (RM)) in close proximity to the south west of the main residential site parcel.

12.19.2. Notwithstanding the conclusion reached in respect of the inability of the proposed measures to fully mitigate the construction phase noise impact or mitigate the impact on the setting of the tower house, it is considered that the environmental effects would not justify a refusal of planning permission having regard to overall benefits of the proposed development. The issue relating to surface water disposal has been addressed in sub-section 12.9 and I consider that it should comprise a reason for refusal.

## **13.0 Appropriate Assessment (AA) Screening**

### **13.1. Stage 1 – Screening Determination for Appropriate Assessment (AA)**

13.1.1. AA screening has been carried out in Appendix 1 to this report.

13.1.2. In accordance with section 177U of the Planning & Development Act, 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European site and is therefore excluded from further consideration. Appropriate assessment (AA) is not required.

13.1.3. This determination is based on:

- scientific information provided in the applicant's AA Screening report.

- the nature, scale, and location of the proposed residential development in a zoned urban area.
- the distances from European sites, both as the crow flies and hydrologically.
- the lack of direct hydrological connection between the proposed development and European sites.
- the likelihood of settlement of any contaminated surface water within drainage ditches and the dilution capacity of the River Liffey and Dublin Bay before any such contaminated surface water discharge could reach any European sites.
- the absence of 'water quality' as an attribute, measure, or target in the Conservation Series document for relevant European sites.
- the absence of any possibility of noise or vibration disturbance to SPA qualifying interests during construction.

13.1.4. No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

## 14.0 Water Framework Directive (WFD)

14.1. The impact of the proposed development in terms of the WFD is set out in Appendix 2 to this report. Surface water from the site discharges to a drainage ditch that flows in a northerly direction and, according to the applicant and IFI, outfalls to the Griffeen River via the Cornerpark Stream. The Griffeen discharges to the River Liffey at Lucan approx. 10km to the north. The Cornerpark/Griffeen is part of the 'Liffey\_170 (IE\_EA\_09L012100)' waterbody. It has a poor WFD 2016-2021 status, and it is at risk of not meeting its WFD objective. Identified pressures are urban runoff and urban wastewater.

14.2. Further to the provisions of Appendix 2 I conclude that on the basis of objective information and proposed mitigation measures contained within the EIAR and CEMP, the proposed development would not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water

body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 15.0 Conclusion

- 15.1. I consider that development of the type proposed is acceptable in principle at this location and would be in accordance with the zoning objective.
- 15.2. Four submissions from local residents/landowners were received and five observations were received from prescribed bodies.
- 15.3. The Chief Executive's Report dated 11<sup>th</sup> August 2022 recommended refusal for two reasons. It was considered that the proposed development would not accord with the relevant infrastructure phasing requirements of the SDCCP 2022-2028 and would materially contravene the Plan, and it was considered that the proposed apartment buildings would be out of character with the context of the site by virtue of the density, height, bulk, and design.
- 15.4. On site inspection it was noted that extensive construction works are ongoing on site on foot of two planning applications that have been granted since this SHD planning application was submitted to the Board.
- 15.5. In carrying out my Planning Assessment, EIA, and AA and WFD screenings, I concluded that permission should be refused for three reasons:
1. The proposed development would be contrary to SPPR 4 of the Apartment Guidelines (2023) because only 40 (34%) of the 116 proposed apartments are dual aspect units, less than the 50% required.
  2. The proposed development would materially contravene CS9 SLO3 and COS5 SLO1 of the SDCCP 2022-2028 relating to the phased delivery of relevant infrastructure.
  3. Concern was raised in one of the submissions in relation to surface water disposal downstream of the site which, inter alia, referred to the absence of consent to use private drains, the fact that previous works carried out were considered to be an effective short-term measure only, and the impact on an ornamental pond. It is apparent from subsequent planning applications on this site that an alternative

method of surface water is feasible i.e. construction of a new surface water pipeline to a new outfall on Hazelhatch Road. It is considered that the development as proposed could result in significant adverse downstream surface water effects and the alternative method of surface water disposal would be preferable given the circumstances outlined in the submission and the recent planning history on site.

- 15.6. Five significant residual impacts resulted from the EIA. There would be a significant positive impact for population due to the substantive increase in the housing stock and in terms of pedestrian and cyclist connectivity and permeability. There would be significant negative impacts for population in the vicinity of site works during the construction phase as a result of noise, on the downstream surface water network, and on the setting of RPS no. 241 (Stone Castle (Ruin), Tower House Possible (RM)). In my opinion, the noise and architectural heritage environmental effects would not justify a refusal of planning permission having regard to overall benefits of the proposed development. However, I consider that the surface water issue would justify a reason for refusal, based on the information on file, as per the third reason in the previous paragraph.
- 15.7. AA was screened out at Stage 1 screening and the proposed development would not have an adverse WFD impact.

## **16.0 Recommendation**

- 16.1. I recommend that permission be refused for the reasons and considerations set out below.

## **17.0 Reasons and Considerations**

1. Specific planning policy requirement (SPPR) 4 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (July 2023) states that in suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme. The proposed development includes two apartment buildings containing 116

apartments. Only 40 of these, approximately 34%, are dual aspect units. The proposed development, therefore, would be contrary to Ministerial guidelines issued to planning authorities under section 28 of the Planning and Development Act, 2001 (as amended), and would be contrary to the proper planning and sustainable development of the area.

2. In the absence of any proposals contained within the application to develop the remaining lands of approximately 1.4 hectares to provide for the full Taobh Chnoic Park, and the approximately 1 hectare Burgage South Park, the proposed development would materially contravene objectives CS9 SLO3 and COS5 SLO1 of the South Dublin County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
3. The Board has concerns about the proposed disposal of surface water to a drainage ditch on site which flows north to an area where previous works on the network were considered to be an effective short-term measure only and which utilises private drains. These limitations could impact on the downstream surface water network and have a significant adverse environmental effect. An alternative method of surface water disposal appears to be feasible which comprises provision of a new surface water pipe to an outfall on Hazelhatch Road. Based on the information on file, the Board considers that the proposed method of surface water disposal could result in a significant adverse environmental effect, would not be in accordance with orderly development, and would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Anthony Kelly

Senior Planning Inspector

19<sup>th</sup> June 2022



## Appendix 1 – Appropriate Assessment (AA) Screening

<b>Screening for Appropriate Assessment (AA)</b> <b>Test for likely significant effects</b> <b>Case file – ABP-313814-22</b>	
<b>Step 1: Description of the project and local site characteristics</b>	
<b>Brief description of project</b>	Seven-year SHD permission for 280 residential units (128 houses, 116 apartments, and 36 duplex apartments), amendments to permitted creche, open spaces, landscaping, lighting, signalised vehicular access and footpath upgrades, surface water attenuation, connection to water, foul drainage infrastructure and pumping station, and all ancillary works in Newcastle, Co. Dublin.
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>The site has an area of 8.47 hectares comprising a residential area (the main parcel) and a site for the creche located approx. 250 metres east of the main parcel. The main parcel is a brownfield site on the edge of the town and recently permitted development is currently being carried out including extensive groundworks and construction activity. The creche site is an undeveloped site in an urban area surrounded by existing development.</p> <p>There are five surface water catchment areas proposed within the development. Four discharge after SuDS to an existing drainage ditch which flows in a northerly direction. The other will outfall to the existing piped network on Athgoe Road. The proposed foul drainage will connect to the existing foul sewer in the adjacent Graydon development. A wastewater pumping station is proposed to serve the majority of the subject site. Foul drainage will drain to this at the north of the site by gravity before being pumped back to the south of the site and discharging to existing infrastructure. A section to the southeast will discharge by gravity to Graydon.</p> <p>The nearest European site is Rye Water Valley / Carton SAC (site code 001398) approx. 7.1km to the north.</p>
<b>Screening Report</b>	An Appropriate Assessment Screening document dated 11 <sup>th</sup> June 2022 has been submitted with the application.
<b>Natura Impact Statement (NIS)</b>	None submitted.
<b>Relevant submissions</b>	No concern in relation to AA issues have been raised in any third party or prescribed body submission (nine submissions in total).

## Step 2: Identification of relevant European sites using the source-pathway-receptor model

The nearest European site as the crow flies is approx. 7.1km away (Rye Water Valley / Carton SAC). The applicant's AA Screening Report has considered European sites within 15km and those beyond 15km with potential of hydrological connection on pages 26-33. Ten sites between 7.1km and 22.1km away were considered and ultimately all were screened out from further consideration.

In my opinion, given the separation distances involved between the subject site and European sites, the residential nature of the proposed development which would not result in the production of wastes or emissions, and its location adjoining an existing urban environment, the only European sites within a theoretical zone of influence would be those with a hydrological connection. The hydrological connection would be relevant to potentially contaminated surface water runoff from the site. The drainage pathway set out in the AA Screening Report states that surface water ultimately outfalls to the River Liffey via the Griffeen River/Stream (which would discharge at Lucan). The IFI submission also identifies the hydrological pathway to the Griffeen via the Cornerpark Stream.

European site (code)	Qualifying interests (QIs)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
Rye Water Valley / Carton SAC (001398)	Petrifying springs with tufa formation, Narrow-mouthed whorl snail, Desmoulin's whorl snail	Approx. 7.1km to the north as the crow flies. An additional unknown further distance hydrologically.	Hydrological	No. If surface water from the site discharges to the Griffeen it would outfall in Lucan downstream of the Rye Water confluence with the Liffey in Leixlip.
South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (004024)	Light-bellied brent goose, Oystercatcher, Ringed plover, Grey plover, Knot, Sanderling, Dunlin, Bar-tailed godwit, Redshank, Black-headed gull, Roseate tern, Common	Approx. 19.1km to the north east as the crow flies. An additional unknown further distance hydrologically.	Hydrological	No. Given the extensive hydrological distance involved, settlement within drainage ditches, the dilution capacity of the River Liffey and Dublin Bay before any contaminated surface water discharge could reach the SPA, I do not consider that there is any possibility of a likely significant impact on the SPA as a result of the proposed development. Also, given the separation distance, there is no

	tern, Arctic tern, Wetland and waterbirds			possibility of noise or vibration disturbance during construction.
South Dublin Bay SAC (000210)	Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Embryonic shifting dunes	Approx. 19.3km to the north east as the crow flies. An additional unknown further distance hydrologically.	Hydrological	No. Given the extensive hydrological distance involved, settlement within drainage ditches, the dilution capacity of the River Liffey and Dublin Bay before any contaminated surface water discharge could reach the SAC, and the absence of 'water quality' as an attribute, measure, or target in the Conservation Series document for this European site, I do not consider that there is any possibility of a likely significant impact on the SAC as a result of the proposed development.
North Dublin Bay SAC (000206)	Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, Salicornia and other annuals colonising mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Embryonic shifting dunes, White dunes, Grey dunes, Humid dune	Approx. 22.2km to the north east as the crow flies. An additional unknown further distance hydrologically.	Hydrological	No. Given the extensive hydrological distance involved, settlement within drainage ditches, the dilution capacity of the River Liffey and Dublin Bay before any contaminated surface water discharge could reach the SAC, and the absence of 'water quality' as an attribute, measure, or target in the Conservation Series document for this European site, I do not consider that there is any possibility of a likely significant impact on the SAC as a result of the proposed development.

	slacks, Petalwort			
North Bull Island SPA (004006)	Light-bellied brent goose, Shelduck, Teal, Pintail, Oystercatcher, Golden plover, Grey plover, Knot, Sanderling, Dunlin, Black- tailed godwit, Bar-tailed godwit, Curlew, Redshank, Turnstone, Black-headed gull, Shoveler, Wetland and waterbirds	Approx. 22.2km to the north east as the crow flies. An additional unknown further distance hydrologically.	Hydrological	No. Given the extensive hydrological distance involved, settlement within drainage ditches, the dilution capacity of the River Liffey and Dublin Bay before any contaminated surface water discharge could reach the SPA, I do not consider that there is any possibility of a likely significant impact on the SPA as a result of the proposed development. Also, given the separation distance, there is no possibility of noise or vibration disturbance during construction.
North-west Irish Sea SPA (004236) <sup>23</sup>	Red-throated diver, Great northern diver, Fulmar, Manx shearwater, Cormorant, Shag, Common scoter, Black- headed gull, Common gull, Lesser black- backed gull, Herring gull, Great black- backed gull, Kittiwake,	Approx. 24.9km to the north east as the crow flies. An additional unknown further distance hydrologically.	Hydrological	No. Given the extensive hydrological distance involved, settlement within drainage ditches, the dilution capacity of the River Liffey and Dublin Bay before any contaminated surface water discharge could reach the SPA, I do not consider that there is any possibility of a likely significant impact on the SPA as a result of the proposed development. Also, given the separation distance, there is no possibility of noise or vibration disturbance during construction.

<sup>23</sup> This SPA was not considered in the applicant's AA Screening Report because it was not designated at the time the application was submitted.

	Roseate tern, Common tern, Arctic tern, Guillemot, Razorbill, Puffin, Little gull, Little tern			
<b>Step 3: Describe the likely effects of the project (if any, alone or in combination) on European sites</b>				
<p>The applicant's AA Screening report screened out all ten European sites considered from further consideration. I have similarly screened out all sites within a theoretical hydrological zone of interest, including North-west Irish Sea SPA which was not designated at the time the planning application was submitted to the Board. Having regard to the provisions of the foregoing table and for the reasons set out in the column 'Consider further in screening Y/N', I do not consider that the proposed development could have any likely significant impact on any European site from the only possible source-pathway-receptor link i.e. contaminated surface water.</p> <p>There is no likelihood of significant effects arising to European sites from the proposed development alone. Therefore I do not consider the proposed development could act in combination with any other plan or project to result in any significant effect.</p> <p>Having regard to the foregoing, I agree with the conclusion of the applicant's AA Screening report that 'the competent authority may determine that a Stage 2 Appropriate Assessment of the Proposed Development is not required as it can be excluded, on the basis of objective scientific information following screening under the Habitats Directive 92/43/EEC (as amended, that the Proposed Development, individually or in combination with other plans or projects, will have a significant effect on any European site'.</p>				
<b>Step 4: Conclude if the proposed development could result in likely significant effects on a European site</b>				
<p>I conclude that the proposed development (alone or in combination with other plans and projects) would not result in likely significant effects on any European site. No further assessment is required for the project. No mitigation measures are required to come to these conclusions.</p>				

## Screening Determination

### Finding of no likely significant effects

In accordance with section 177U of the Planning & Development Act, 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European site and is therefore excluded from further consideration. Appropriate assessment (AA) is not required.

This determination is based on:

- scientific information provided in the applicant's AA Screening report,
- the nature, scale, and location of the proposed residential development in a zoned urban area.
- the distances from European sites, both as the crow flies and hydrologically.
- the lack of direct hydrological connection between the proposed development and European sites.
- the likelihood of settlement of any contaminated surface water within drainage ditches and the dilution capacity of the River Liffey and Dublin Bay before any such contaminated surface water discharge could reach any European sites.
- the absence of 'water quality' as an attribute, measure, or target in the Conservation Series document for relevant European sites.
- the absence of any possibility of noise or vibration disturbance to SPA qualifying interests during construction.

No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

## **Appendix 2 – Water Framework Directive (WFD)**

WFD IMPACT ASSESMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site, and Locality			
An Bord Pleanála Ref. No.	ABP-313814-22	Townland / Address	Newcastle South, Newcastle, Co. Dublin
Description of project?		Seven-year SHD permission for 280 residential units (128 houses, 116 apartments, and 36 duplex apartments), amendments to permitted creche, open spaces, landscaping, lighting, signalised vehicular access and footpath upgrades, surface water attenuation, connection to water, foul drainage infrastructure and pumping station, and all ancillary works.	
Brief site description, relevant to WFD screening		<p>The site is located on the urban edge of Newcastle. It is currently subject of extensive development activity on foot of planning permissions granted on site in the period since this subject SHD application was submitted in June 2022.</p> <p>The site has a slight drop in ground levels from south to north. There are drainage ditches on site and it is proposed to discharge surface water from the majority of the site to one of these ditches. The remainder is to discharge to a piped system on Athgoe Road. The subsoil type on site is limestone till which generally has good drainage.</p>	
Proposed surface water details		There are five surface water catchment areas proposed within the development. Four discharge after SuDS to an existing drainage ditch which flows in a northerly direction. The other will outfall to the existing piped network on Athgoe Road.	
Proposed water supply source and available capacity		Water supply is from the public main. The Irish Water submission on file states that a water connection is feasible without an infrastructure upgrade.	
Proposed wastewater treatment system and available capacity and any other issues		Foul water is to discharge into the foul system existing within the adjacent Graydon development which bypasses the constrained network to the north of the development.	
Others?		No	



Step 2: Identification of Relevant Water Bodies and Step 3: Source-Pathway-Receptor (S-P-R) Connection						
Identified water body	Distance (metres (from the main residential parcel of the site)	Water body name (code)	WFD status (2016-2021)	Risk of not achieving WFD status i.e. at risk, review, not at risk	Identified pressure on that water body	Pathway linkage to water feature e.g. surface water runoff, drainage, groundwater
River waterbody (Cornerpark/Griffeen)	Approx. 360 metres to the east (Cornerpark) and approx. 1.2km to the south east (Griffeen) as the crow flies but an unknown distance hydrologically	Liffey_170 (IE_EA_09L012100)	Poor	At risk	Urban runoff Urban wastewater	Discharge to surface water
Groundwater waterbody	Underlying site	Dublin (IE_EA_G_008)	Good	Review	No pressures	Discharge to groundwater
Step 4: Detailed Description of any Component of the Development or Activity that may Cause a Risk of Not Achieving the WFD Objectives Having Regard to the S-P-R Linkage						

No	Component	Water body receptor (EPA code)	Pathway (existing and new)	Potential for impact / what is the possible impact	Screening stage mitigation measures	Residual risk? Y/N Detail	Determination to proceed to Stage 2. Is there a risk to the water environment? If 'screened in' or 'uncertain' proceed to Stage 2
<b>Construction Stage</b>							
1.	Site clearance / construction works	Liffey_170 (IE_EA_09L012100)	Drainage ditches in a northerly direction	Deterioration of surface water quality from pollution of surface water run-off during site preparation and construction	A number of mitigation measures are set out in the various documents submitted with the application such as the various chapters of the EIAR and in the CEMP. Relevant measures relate to issues including topsoil stripping and storage, rain/ground water pumping from excavations, on-site settlement ponds, hazardous liquid storage, and treatment of sediment laden surface water runoff.	No. I am satisfied that the preventative measures which are aimed at interrupting the S-P-R will reduce possible effects to a non-significant level.	Screened out

2.	Groundwater	Dublin (IE_EA_G_008)	Drainage to ground	Reduction in groundwater quality from pollution of surface water run-off	Relevant measures set out in the EIAR and CEMP include appropriate storage and bunding of hazardous liquids, refuelling and servicing of machinery on hardstanding areas, and discharge from vehicular wheel wash areas to be directed to on-site settlement ponds/tanks.	No. I am satisfied that the proposed mitigation measures are adequate to prevent an adverse impact on groundwater quality.	Screened out
<b>Operational Phase</b>							
1.	Surface water runoff	Liffey_170 (IE_EA_09L012100)	Runoff to drainage ditches	Deterioration of surface water quality	Relevant measures set out in the EIAR include attenuation of surface water runoff to greenfield rates, inclusion of a petrol interceptor prior to discharge, and regular maintenance and inspection programme of surface water features.	No residual risk. This is a standard residential development.	Screened out
<b>Decommissioning</b>							
Decommissioning is not anticipated as this is a permanent residential development.							