



An
Bord
Pleanála

Inspector's Report PL06S.249294.

Development	126 houses, 7 apartments, crèche, car parking, open space, landscaping access and associated site works.
Location	Oldcourt Cottages, Bohernabreena/Oldcourt/Ballycullen, Dublin 24.
Planning Authority	South Dublin County Council.
Planning Authority Reg. Ref.	SD17A/0121.
Applicant	Capami Ltd.
Type of Application	Permission.
Planning Authority Decision	Permission with conditions.
Type of Appeal	First and Third Party
Appellants	<ol style="list-style-type: none">1. Capami Ltd2. June Hanlon and Others.
Observer(s)	<ol style="list-style-type: none">1. An Taisce2. Brenda and Noel McCabe3. David, Muriel and Niamh Delappe.

4. Tom and Rita McMahon.
5. John and Valerie Malloy.
6. Brian and Catherine O'Sullivan.
7. Joyce Synott.
8. Paul and Karen Needham.

Date of Site Inspection

8th January 2018.

Inspector

Derek Daly.

1.0 Site Location and Description

- 1.1. The proposed development is located in the Oldcourt/Bohernabreena area of South County Dublin in the foothills of the Dublin Mountains on the fringe of the built up of the Grater Dublin urban area. The site to the north adjoins established residential development, the Ely Residential area, a modern residential development comprising of mainly two storied semi-detached dwellings with a small number of single storied development, to the northwest of the appeal site and an older residential area Oldcourt Cottages on the remainder of the northern boundary. Oldcourt Cottages are single storied detached cottages off a number of accesses from Oldcourt Road the main traffic route in the area and which serves many of the residential estates in the area.
- 1.2. To the east of the site is a residential development currently in the final state of construction referred to in correspondence as Dodderbrook, which is referred to as phase 1 of an overall development and the current proposal will constitute phase 2 of the overall development. The proposed development will be accessed from phase 1 of the development. There is a watercourse running in close proximity to this boundary.
- 1.3. There is a gradual rise in level in a southerly direction. The site is currently in agricultural use with hedgerows largely defining current boundaries. The northern boundary is largely defined by a ditch and hedgerows separating the site from the established residential area to the north. The western boundary is defined by a watercourse flowing northwards along the western boundary which runs into a culvert at the northwestern corner of the site. To the south are open lands with a sharper gradient rising into the foothills and over which there is a major electricity transmission line,
- 1.4. The site which is irregular in configuration has a stated area of 4.64 hectares.

2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority on the 18th of April 2017 provided for the following;

- 2.1.1. The construction of 126 houses, 97 of which are 3 bedroomed and 29 of which are 4 bedroomed. The residential mix comprises of detached, semi-detached and terraced units with 3 detached four bedroomed units, 80 semi-detached 23 of which are 4 bedroomed and 57 of which are 3 bedroomed units and terraced blocks which constitute with one exception blocks of 4 units and are 3 bedroomed. There is also provision for 9 units in a duplex block and for 7 apartments 5 of which are 2 bedroomed units and 2 units which are 3 bedroomed.

The units are predominantly two storied a number of which have a third floor dormer provision and the units are of a modern design and construction. The duplex block is 3 storey clock with a mansard type flat roof upper floor.

All of the units have private open space areas to the rear with provision for onsite parking for the detached and semi-detached units. There is provision for communal car parking to the front of the terraced and apartment units and a total of 306 spaces are provided.

- 2.1.2. A crèche with a stated floor area of 423m² located in the southern area of the site with a set down area in front of the crèche. The crèche is a two storied building of modern construction.
- 2.1.3. The provision of open space which is largely provided at the northern, western and eastern perimeters of the site forming a linear space with a footpath running through the space,
- 2.1.4. The proposed access will be from the adjoining lands to the east a residential area referred to as Dodderbrook which has an access onto Oldcourt Road. The overall internal layout provides for a road network around the perimeter of the site with internal roads providing access to the individual units. There is provision for future access to lands to the south.
- 2.1.5. Associated site works which include piped services including provision for attenuation of surface water.
- 2.1.6. In addition to the drawings and particulars the documentation submitted also included a planning report a flood risk assessment; a design statement; an appropriate assessment, an engineering planning report; a stage 1 road safety audit; a construction waste management plan and a traffic impact assessment (TIA).

2.1.7. It is proposed to connect to existing piped services.

2.2. Further information was submitted to the planning authority on the 31st of July 2017 including the following;

- A number of cross sections of the site indicating existing and proposed levels, which it is indicated provide for a respect of the contours with minimal intervention.
- A detailed landscaping plan.
- A revised TIA and details of sightlines at junctions.
- Clarification in relation to attenuation measures proposed for the site.
- Revised drainage details.
- Clarification in relation to the crossing of the stream on the site and the links between the proposed development and the development to the east.
- Details relating to play area on the site for children in accordance with the requirements of the LAP.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant planning permission subject to 29 conditions. I would refer to the following;

- Condition no. 2 requires the amendment of all blocks to be not more than 80 metres in length.
- Condition no. 3 requires amendments to the submitted development. 3(i) in particular relates to a revision of the development to omit unit numbers 78, 79, 80, 81, 82 and 83 and the alteration of Road 3 to allow for an increased provision of open space.
- Condition no. 6 prohibits the use of retaining walls in the development.
- Condition no. 7 relates to the preparation of an attenuation masterplan and an increase in the capacity of the attenuation ponds.

- Condition no. 8 relates to ground levels.
- Condition no. 17 relates to phasing of the development.
- Condition no. 18 relates to Part V.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 7th of June 2017 refer to;

- The provisions of the county development plan and LAP.
- The planning history.
- An assessment under a number of issues identified.
- The principle of the development is accepted.
- There is an appraisal of the development in the context of the urban design criteria set out in the LAP.
- There are concerns outlined in relation to the intrusive engineering solutions to achieve the development and aspects of the layout in the southwest of the development arising from the site contours and a need to respect existing site contours.
- Further information was recommended.

The planning report dated the 28th of August 2017 considered the proposal in the context of the further information;

- The report notes that the further information and submission of site sections but no elevations of the proposed development are shown on the sections. The concerns relating to intrusive engineering solutions in relation to cut and fill remain. The matter it is indicated requires to be addressed by condition.
- A similar concern is indicated in relation to the length of a building block in excess of 80 metres as indicated in the LAP.
- Having appraised the revised landscaping plan a reduction in the number of units is proposed to address open space provision requirement.

- Aspects of the information submitted relating to attenuation and other matters are not considered adequate but can be addressed by condition.
- Permission was recommended.

3.2.2. Other Technical Reports.

The water services planning report dated the 26th of June 2017 in relation to surface water indicates concerns in relation to attenuation and that the proposals are undersized and there is a need to submit revised proposals to address this.

The roads report requests further information be submitted on a number of matters including details relating to sightlines and a revised TIA.

A subsequent roads report dated the 16th of August 2017 in relation to the further information submitted indicates no objections to the development.

Water services report dated 22nd of August 2017 requests further clarification in relation to surface water attenuation.

3.3. Prescribed Bodies

Irish Water in a submission dated the 26th of May 2017 indicates no objections but outlines a number of requirements to be submitted. A further report dated the 23rd of August 2017 indicates no objection to the further information submitted.

Fisheries Ireland in a submission outline a number of requirements including a riparian buffer.

3.4. Third Party Observations

A number of submissions were received in relation to the initial submission and the further information submitted and reference is made to flood risk; overlooking, site levels, heights of the proposed structures, drainage, boundary treatments, open spaces, traffic congestion and security.

4.0 Planning History

ABP Ref. No. PL06S.244631/PA Ref. No S14A/0180.

An appeal in relation to this development for 130 houses, 8 apartments, car parking, open space, landscaping access and associated site works immediately to the east of the appeal site was withdrawn. The applicant was the same as the applicant in the current appeal.

5.0 Policy Context

5.1. Guidance for Planning Authorities Sustainable Residential Development in Urban Areas (Cities Towns and Villages) May 2009.

- 5.1.1. The objective of the guidelines is to produce high quality sustainable developments. The guidance relates to all levels of settlements and are accompanied by a best practice Design Manual.
- 5.1.2. The guidance set out the importance of design and context and criteria which should be addressing the preparation and assessment of residential development including scale of development relative to the settlement and also design statements outlining the rationale of new development.
- 5.1.3. The guidelines lay emphasis on a plan led approach, establishing relationships between established and new proposed neighbourhoods, the benefits of mixed-use development and the setting of appropriate density levels within the area which are outlined in more detail in chapter 5 for cities and large towns.
- 5.1.4. In relation to density for outer suburban / 'greenfield' sites which the appeal site could be regarded as, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares (section 5.11).
- 5.1.5. Section 5.12 also indicates that in order to facilitate a choice of housing types within areas, limited provision may be made for lower density schemes provided that, within a neighbourhood or district as a whole, average densities achieve any minimum standards recommended.

5.2. DMURS

- 5.2.1. **Design Manual for Urban Roads and Streets (DMURS)** was prepared for the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government and published in March 2013.
- 5.2.2. The Manual offers a holistic approach to the design of urban streets in cities, towns, suburbs and villages; to the application of principles and standards and a new perspective in assessing development in the urban context with emphasis on accessibility, permeability and design.
- 5.3. The Planning System and Flood Risk Management Guidelines for Planning Authorities November 2009.
- 5.3.1. These guidelines require the planning system at national, regional and local levels to:
- Avoid development in areas at risk of flooding, particularly floodplains, unless there are proven wider sustainability grounds that justify appropriate development and where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere;
 - Adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk; and
 - Incorporate flood risk assessment into the process of making decisions on planning applications and planning appeals.
 - Carry out a site-specific flood risk assessment, as appropriate, and comply with the terms and conditions of any grant of planning permission with regard to the minimisation of flood risk.

The core objective of the Guidelines is to avoid inappropriate development in areas at risk of flooding.

- 5.3.2. Three types or levels of flood zones defined for the purposes of the Guidelines:
- Flood Zone A – where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5% or 1 in 200 for coastal flooding);

- Flood Zone B – where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding); and
- Flood Zone C – where the probability of flooding from rivers and the sea is low (less than 0.1% or 1 in 1000 for both river and coastal flooding). Flood Zone C covers all areas of the plan which are not in zones A or B.

5.3.3. The guidelines in requiring assessment of flood risk sets out a methodology in chapter 3 to examine proposals through a series of stages including where identified the need for a justification test where identifiable risks are outlined. Chapter 5 indicates guidance in relation to development management of applications for development.

5.4. **Development Plans**

5.4.1. The operative plan is the **South County Dublin Development Plan 2016-2022**.

The site is located within an area zoned Res N with the objective “to provide for new residential communities in accordance with approved area plans”.

5.4.2. The county development outlines policies and standards in relation to development including new residential development and also has a requirement for the submission of a design statement as indicated in section 11.2.1. The plan also generally sets out the requirement of adherence to national standards in relation to density, the layout of development and for at least the provision of minimum standards to be provided in relation to public open spaces and also standards in relation to individual residential units.

5.5. **Ballycullen-Oldcourt Local Area Plan 2014**

5.5.1. The LAP covers an area to the south fringe of the existing built up area and covers an area of approximately 90 hectares. The LAP provides a framework for the development of lands within the LAP which are largely undeveloped and zoned for new residential development and the LAP provides for the provision of 1,600 new residential units in a phased manner as set out in chapter 6 of the LAP.

5.5.2. The site is located within an area defined as a “relatively unconstrained area” and within an area referred to as “lower slope lands”. The relatively unconstrained areas

of the Plan Lands largely comprise the more northern and lower lying areas that have a more gentle topography. These lands are also not traversed by significant utility lines. In terms of the scale and density of any proposed development should reflect nearby existing residential development and medium density development is considered permissible. Densities of between 32 and 38 are recommended on these lands as set out in table 5.4.

- 5.5.3. The overriding strategy is to ensure that development, at a wider level, is carried out in an integrated, coherent and universal design led manner that responds to the local context and also accords with relevant national guidelines including the *Design Manual for Urban Roads and Streets*. The strategy also provides for a phasing of development and the provision of the necessary infrastructure to serve the area. In this context there is reference to the need to address the challenges presented by the area of the LAP, which the LAP considers has a unique amenity value in terms of natural heritage;
- 5.5.4. Minimum open space in lower slope areas is indicated in table 5.2 as 20%. In relation to building design and heights it is indicated that new development on the plan lands should sensitively reflect its semi-rural and mountain setting.
- 5.5.5. The appendix to the LAP outlines plan objectives under various headings including design, flood risk management, topography and contours, open space hierarchy and functions, dwelling mix and density, building design and heights and development management standards on a range of matters.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. First Party

- 6.2.1. Capami Ltd c/o Fenton Associates in a submission dated the 25th of September 2017 refers to;
- The appeal relates to condition no 3(i) of the planning authority's decision to grant planning permission and to omit the subject conditions in a grant of planning permission.

- Condition no 3(i) relates to a revision of the development to omit unit numbers 78, 79, 80, 81, 82 and 83 and the alteration of Road 3 to allow for an increased provision of open space.
- There is no need for the removal of the units as the level of open space provided is in excess of 20% as required in the LAP and also for attenuation as the requirements for SUDS are also complied with.
- The LAP requires a setback of 15 metres free of development from the stream.
- The site complies with density requirements of the LAP.
- The omission of the units is a subjective judgement not based on a detailed analysis of either the open space lands required or lands required for attenuation.
- The condition will result in the rear gardens of house nos 84 and 88-92 backing onto open space contrary to the LPA and good design practice.
- The omission of the units never arose in pre-planning discussions.

6.3. Third Party.

6.3.1. **June Hanlon and Others** in a submission dated the 14th of September 2017 refer to;

- The appellants consider that their concerns were not considered by the planning authority.
- Reference is made to the issue of flooding and the land has a documented history of flooding to the south of Oldcourt and Ely residential estates.
- Reference is made to issues of privacy and security and to Policy H15 in this regard. The appellants request that the 4 bedroomed houses with dormer windows facing 6, 7, 7a and 8 Oldcourt Cottages be altered to 2 storied houses to avoid overlooking and that the development be amended.
- No EIS was undertaken with no study in relation to protection of species and bats are specifically referred to.

- Minimum room sizes are not provided in accordance with DOEHLG guidelines.
- Condition no 6 is referred to and it is requested that retaining walls on the perimeter be reduced to 400mm.
- Reference is made to condition no 7 which requires an increase of 500mm in levels but does not address flood risk problems for existing dwellings.
- The appellants welcome the reduction of the development by 6 units.

6.3.2. Applicant Response

6.3.3. The **applicant** c/o Delphi Architects and Planners in a response dated the 19th of October 2017 refers to;

- Reference is made to planning context of the proposed development and to provisions of the LAP for the area and the proposed development fully accords with the provisions of the LAP and the proper planning and sustainable development of the area.
- In relation to flooding a site specific flood risk assessment was carried out in accordance with national guidance and that the recommendations of the assessment are including in the proposed development including the provision of a swale along the northern boundary and lowering of land to provide for compensatory storage.
- No cut and fill is proposed and all floor levels will be 500mm above the known highest flood level of the site.
- In relation to the issue of overlooking there is considerable separation from the dwellings in Old Court Cottages and refers to a distance of a minimum of 35 metres and no adverse overlooking arises.
- Internal standards and private open space for the individual units can be complied with and agreed with the planning authority.
- The site was environmentally appraised.
- The Board is requested to consider the omission of condition 3(i) as outlined in the first part appeal.

- There is no objection to the other conditions of the Planning Authority decision.

6.4. Planning Authority Response

The planning authority in a response dated the 18th of October 2017 requests its decision be reaffirmed and that the issues raised in the grounds of appeal are addressed in their reports.

6.5. Observations

6.5.1. **An Taisce** in a submission dated the 9th of October 2017 refers to;

- In relation to the issue of intrusive engineering, reference is made to the previous refusal on the site and significant concerns expressed by the planning authority in relation to soil stabilisation and that the use of a condition (no.6) is too vague and should not be left to post consent conditions.
- Reference is made to the stream and to source pathway receptor and the need to prevent water quality degradation. It cannot not be adequately established that there are no adverse impacts on water quality.
- Under the Water Framework Directive there is a requirement in relation to water quality enhancement.
- The housing would be better provided by infill development rather an extension of urban sprawl.

6.5.2. **Brenda and Noel McCabe** with an address at 9A Oldcourt Cottages in a submission dated the 12th of October 2017 refer to;

- Reference is made to the nature of the soil in the area and the incidence of flooding over many years.

6.5.3. **David, Muriel and Niamh Delappe** with an address at 7A Oldcourt Cottages in a submission dated the 9th of October 2017 refer to;

- The issue of overlooking of their property which is a bungalow by what are technically 3 storey houses.

- Reference is made to the density of the development and issues of traffic in the general area.

6.5.4. **Tom and Rita McMahon** with an address at 35 Ely Drive in a submission dated the 24th of September 2017 refer to;

- Reference is made to the issue of overlooking and impact on privacy of their property which is a single storied bungalow.
- There are concerns in relation to flooding in particular to their property.
- There is no soakage in the soil.
- There are concerns in relation to the construction of what is in effect three storey development overlooking their property.
- Photographs are also included.

6.5.5. **John and Valerie Malloy** with an address at 8A Oldcourt Cottages in a submission dated the 20th of October 2017 refer to;

- The issue of soil stabilisation works is referred to in the context of a previous application refused on the site.
- Reference is made to the impact on existing houses and to the height of the proposed development.
- The issue of flooding in the area is referred to and the incidence of flooding which occurs.
- The lack of response to the matters requested by way of further information is also referred to.

6.5.6. **Brian and Catherine O'Sullivan** with an address at 35 Ely View in a submission received the 23rd of October 2017 refers to;

- The application is flawed and reference is made to the previous refusal on the site.
- Reference is made to the issue of flooding which is widely known to occur in the area and acknowledged in the application.

- Reference is made to the issue of traffic and to the data submitted with the application.
- Traffic congestion is a serious issue in the area and the proposed development will increase this congestion.

6.5.7. **Joyce Synott** in a submission with an address at 8 Old Court Cottages in a submission dated the 20th of October 2017 refers to;

- The issue of soil stabilisation and impact on watercourses is raised.
- Reference is made to the height of the proposed dwellings and the impact on existing single storied cottages is raised.
- The incidence of flooding in the area is referred to.
- The absence of information is raised.
- The disappearance of the natural environment is referred to.

6.5.8. **Paul and Karen Needham** with an address at 6 Oldcourt Cottages in a submission dated the 29th of September 2017 refers to;

- The Oldcourt Cottages development is single storey development.
- Reference is made to the issue of building heights in relation to relative difference in site levels and also the provision of 3 storey units.
- The issue of historical flooding in the area is raised.
- The alteration of site levels is raised.
- The absence of detailed information as part of the application is raised.

7.0 **Assessment**

7.1. The main issues which arise in relation to the appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues primarily relate to the principle of the development and site specific matters relating to design and layout, compliance with standards as outlined in the LAP, the issue of flooding and the first part appeal.

- 7.2. Principle of development.
- 7.2.1. The site is located within an area zoned Res N in the South County Dublin Development Plan 2016-2022 with the objective “to provide for new residential communities in accordance with approved area plans”. The proposal is for new residential development and the principle of the use is acceptable. I note that submissions have referred to provision of residential development on infill sites and the avoidance of sprawl but the development plan and overall policy framework has provided for an overall assessment of future residential development which provides for both measures and the appeal site represents an immediate extension of the existing built up area.
- 7.2.2. The Ballycullen-Oldcourt Local Area Plan 2014 is the operative LAP in which the site is located covering a linear area to the south fringe of the existing built up area and covers an area of approximately 90 hectares. The LAP provides a more detailed framework for the development of lands within the LAP which are largely undeveloped and zoned for new residential development and the LAP provides for the provision of 1,600 new residential units.
- 7.2.3. The site is located within an area within an area referred to as “lower slope lands” and is also defined as a “relatively unconstrained area” which largely comprise the more northern and lower lying areas that have a more gentle topography. In terms of the scale and density of any proposed development it is indicated should reflect nearby existing residential development and medium density. Densities of between 32 and 38 per hectare are recommended on these lands as set out in table 5.4.
- 7.2.4. In overall terms the principle of the development accords with the provisions as set out in the LAP.
- 7.3. Design and layout.
- 7.3.1. In relation to design and layout both the county plan and LAP require new residential development to comply with stated national guidance.
- 7.3.2. In relation to the layout as submitted the development provides for a central core of residential units with public open space located in a linear form along the western, northern and eastern boundaries. There is provision for access to the development from the adjoining permitted residential lands to the east referred to as Dodderbank. The overall design and layout is largely similar to the adjoining Dodderbank

development. In overall terms the proposed development, therefore, forms a subsequent phase of the residential development to the east. There is provision in the layout for future access of lands to the south.

- 7.3.3. In relation to the housing mix the development provides for the construction of 126 houses, 97 of which are 3 bedroomed and 29 of which are 4 bedroomed. The residential mix comprises of detached, semi-detached and terraced units with 3 detached four bedroomed units, 80 semi-detached 23 of which are 4 bedroomed and 57 of which are 3 bedroomed units and terraced blocks which constitute with one exception blocks of 4 units and are 3 bedroomed. There is also provision for 9 units in a duplex block and for 7 apartments 5 of which are 2 bedroomed units and 2 units which are 3 bedroomed.

The units are predominantly two storied a number of which have a third floor dormer provision and the units are of a modern design and construction. The duplex block is 3 storey clock with a mansard type flat roof upper floor.

All of the units have private open space areas to the rear with provision for onsite parking for the detached and semi-detached units. There is provision for communal car parking to the front of the terraced and apartment units and a total of 306 spaces are provided.

The level of public open space exceeds the 20% requirement specified for lower slope areas in the LAP and the density of the development also accords with the provisions of the LAP and national guidance. The medium density standard as outlined in the LAP is reasonable in the context of the site, which is a fringe site in the foothills, it adjoins established residential development and is not proximate to a major public transportation utility.

The overall layout, I consider, is also satisfactory and the residential mix is reasonable and appropriate.

- 7.3.4. I would, however, note two conditions of the planning authority in relation to the layout of the development. Condition no 3(i) requires the omission of a number of conditions to allow for increased open space and this condition is appealed by the first party on the basis that there is adequate provision of open space. I would support the omission of 3(i) as I consider that there is adequate provision of open space. The omission of the units in question would also result in rear garden areas

adjoining public open space which is not I consider an appropriate design response and would interfere with the overall design and rhythm of the layout.

- 7.3.5. I wish also to refer to condition no 2 of the planning authority's decision. This condition requires revisions to the layout to comply with objective BF2 of the LAP. This objective requires that block lengths within the Lower Slope Lands should be no more than 80 metres and that plot widths for dwellings in this area should vary between 5 metres and 9 metres and dwellings depths should be no more than 10 metres. This condition was not the subject of appeal. The blocks vary between 85 and 110 metres within the area bound by roads 1, 4 and 5.

This condition could result in the omission of a number of residential units in the western area of the site within the area bounded by roads 1, 4 and 5 or the recasting of the layout. The exact nature of how the condition would be achieved is unclear and equally in terms of the overall layout I do not consider whether it is merited or would enhance the overall layout. I do not consider this condition as necessary and should be omitted.

7.4. Impact on adjoining residential development.

- 7.4.1. In relation to the matters raised by third parties in relation to impacts on amenities the issue of overlooking and impact on privacy are raised.
- 7.4.2. The layout provides for a linear area of open space between the existing residential development to the north and the proposed development. In the case of the Ely residential development these dwellings have side elevations facing towards the appeal site and there is a separation distance of in excess of 40 metres between proposed and existing development in the Ely estate. I do not consider that issues of overlooking and loss of privacy arise.
- 7.4.3. In relation to Old Court Cottages similar if not greater separation distance occurs. I would note that virtually all of the Old Court Cottages are single storied and a number of the proposed dwellings the type B1 units incorporate a two storey with an additional dormer roof level but separation distances of in excess of 50 metres occur in relation to these units and I consider that the overlooking and loss of amenity will not arise.

7.5. Flooding

- 7.5.1. Flooding is raised in many of the third party submissions and also arose in the planning authority's assessment.
- 7.5.2. The site was the subject of a flood risk assessment in accordance with department guidance. Part of the site was identified as within a flood risk zone A and partially within flood risk zone B, as identified in figure 4.1 of the flood risk study, largely in close proximity to the eastern boundary where there is an existing watercourse. The flooding is largely associated with the low lying nature of the lands adjoining the watercourse.
- 7.5.3. To address potential risks arising a minimum floor level is recommended for dwellings within the development above a 100-year storm water event and in the wider context compensatory storage areas located in the eastern areas are also identified and proposed by the lowering of site levels adjoining the watercourse along the eastern boundary.
- 7.5.4. Other potential sources of flooding are also considered including overland flows and existing drainage including culverts the blocking of which would appear in part to be the source of local flooding. The study identifies mitigation measures to address potential flooding by the provision of a swale to convey water to the open stream at the northeastern corner of the site and the use of other drains to filter water to discharge into the stream.
- 7.5.5. In relation to the overall issue of surface water drainage I note that the planning authority have required attenuation ponds be increased and this is specified as part of an overall attenuation of surface water in relation to both phases 1 and 2 in condition no 7. I would have no objection to the requirement.

7.6. Services

- 7.6.1. It is proposed to connect to existing services. The details in relation to the internal network and connections to existing sewers and watermains are outlined in the submitted drawings. There are also details submitted including in particular measures for attenuation of storm and surface water drainage.
- 7.6.2. I note that Irish Water have raised no objections and I would have no objections to the proposals as submitted.
- 7.6.3. I would have no objections to the details as submitted.

- 7.7. Transportation and circulation.
- 7.7.1. A TIA was submitted with the application and further clarification was submitted in relation to sightlines. I note there is reference in submissions to traffic issues in the area. It is proposed to access the existing public road network via the permitted Dodderbrook development and provision is made for access to neighbouring lands. There is also provision for internal circulation for pedestrians and for external linkage to lands to the east. I have no objections to the details as submitted.
- 7.8. Other uses.
- 7.8.1. The development also provides for a crèche.
- 7.8.2. In relation to the crèche the development complies with national guidance in relation to the provision of such facilities with provision for drop off on the public road. I would have no objection to the crèche in relation to location, layout and design.

8.0 **Appropriate Assessment**

- 8.1. The applicant submitted a stage 1 screening report and a Stage 2 NIS.
- 8.1.1. The site is not located within a Natura 2000 site. No habitat is directly impacted by the proposed development and there is therefore no loss of habitat.
- 8.2. In stage 1 Natura 2000 sites within 15 kilometres are identified which included the Glenasmole Valley SAC site code 001209; Wicklow Mountains SAC site code 002122; South Dublin Bay SAC site code 0040124 and Knocksink Woodlands SAC site code 000725. No source pathway receptor link was identified between the appeal site and the Natura 2000 site. The screening identified the development poses a risk to bat species a protected species.
- 8.3. The stage 2 report assesses potential impacts on the bat species and a number of mitigation measures are outlined largely relating to buffer areas around drainage ditches and the nature of future planting. The report restates that no impacts on Natura sites will arise.
- 8.4. In relation to Natura 2000 any effect would be indirect effects and would largely arise from discharges to the ground and surface water but there is no direct surface flow from the appeal site to a designated site.

- 8.4.1. I note the nature of the development and its location is at the fringe of the urban area and there is an absence of connections with regard to source pathway receptor. In relation to on qualifying species identified as bats I note that mitigation measures are outlined within the documentation to address any potential risk from the proposed development in the construction phase and post construction phase.
- 8.5. It is reasonable to conclude on the basis of the information on the file which I consider is reasonable to issue a determination that the development, individually or in combination with other plans and projects would not be likely to have a significant effect on any European site, in view of the sites' conservation objectives.

9.0 Recommendation

- 9.1. In view of the above assessment permission for the proposed development is recommended.

10.0 Reasons and Considerations

- 11.0 Having regard to the provisions of the South County Dublin Development Plan 2016-2022 and the Ballycullen-Oldcourt Local Area Plan 2014, the location of the site and the pattern of existing development in the area; the zoning of the site; the nature, scale and design of the proposed development and the availability in the area of infrastructure, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 18th of April 2017 and the 31st of July 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be

agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity

- 2 Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity

- 3 The internal road and circulation network serving the proposed development including parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

- 4 Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority.

Reason: In the interest of pedestrian safety

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

Reason: In the interests of visual and residential amenity.

- 6 A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following: -
 - (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;

(c) details of proposed boundary treatments at the perimeter of the site, and internally within the site including heights, materials and finishes.

(d) details relating to the protection of existing trees as required by the planning authority

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme and shall include a timescale for implementation.

Reason: In the interest of visual amenity.

- 7 Water supply and drainage arrangements, including the attenuation and disposal of surface water and the sizing of attenuation ponds, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and orderly development

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

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

- 9 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste

Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

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

Reason: In the interests of amenity and public safety.

- 11 Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

- 12 The public/communal open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots.

Reason: In order to ensure the development of the public open space areas, and their continued use for this purpose.

- 13 A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of storage, separation and collection of the waste shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: To provide for the appropriateness management of waste and in

particular recyclable materials in the interests of protecting the environment.

- 14 The finished floor levels of the proposed residential units shall be a minimum of 500mm above the known flood level for the site.

Reason: In the interest of public health and orderly development

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

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

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

Reason: To ensure the satisfactory completion and maintenance of the

development until taken in charge.

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

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

Derek Daly
Planning Inspector

8th January 2018