



An
Bord
Pleanála

Inspector's Report ABP-302414-18

Development	Permission on Site A, for housing development of 65 units. Outline permission on Site B, for construction of educational campus comprising primary school and post-primary school, and playing pitch.
Location	Site A south of Stocking Avenue; Site B east of Ballycullen Road, Dublin 16.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD18A/0204
Applicant(s)	Jones Investments Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission & refuse outline permission
Type of Appeal	First party
Appellant(s)	Jones Investments Ltd.
Observer(s)	Tony Hayes, St. Anne's GAA Club. Knocklyon United Football Club.
Date of Site Inspection	6 th November 2018
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 10.14ha, is located in two distinct parts (A & B), separated by agricultural land, in the foothills of the Dublin Mountains. Site A is located to the south of Stocking Avenue (a recently-constructed distributor road), on the edge of the expanding suburb of Ballycullen – to the southwest of the M50 Motorway. Stocking Avenue connects Ballycullen Road with Stocking Lane in Rathfarnham. The 50kph speed restriction applies in this area and there are public footpaths and there is public lighting on the road. There are cycle lanes on either side of Stocking Avenue. There is a frequent Dublin Bus service running along Stocking Avenue – the terminus of which is located in the vicinity. Ballycullen Road, on the western side of Site B, is a county road (L4003), on which the 50kph speed restriction applies. It is possible to pass two vehicles on this road. There are no public footpaths and there is no public lighting on this part of the road. Immediately to the north of Site B, Ballycullen Road has been realigned and provided with footpaths, public lighting and a limited length of cycle lane, in association with development of housing at Abbot's Grove. Ballycullen Road connects to Old Court Road/Gunny Hill (R113) at the entrance to Orlagh (a former religious house), at the southwestern corner of Site B.
- 1.2. Site A (1.9ha) is a roughly rectangular piece of agricultural land (now rank), which slopes gently uphill from north to south – from approximately 97m OD to 107m OD. Spoil has been deposited on the western section of the site – from which domestic waste protrudes in places. To the north, the site abuts Stocking Avenue – the boundary with which is a plinth wall & railings. To the east, the site abuts the Stocking Wood residential estate – the boundary with which is a dry ditch (up to 2.0m deep in places) within a mature belt of deciduous trees (comprising mostly ash, beech, sycamore, oak, elm and hawthorn): many of these trees are infested with ivy. To the south, the site abuts agricultural land – the boundary with which is a dry ditch and overgrown, poor-quality hedgerow. To the west, the site abuts a cul de sac link road, giving access to the Abbot's Grove housing estate (and to zoned lands beyond) – the boundary with which is timber post & rail fencing. There is vehicular entrance to the site from this link road.

- 1.3. Site B (8.24ha) is an irregularly-shaped piece of agricultural land which is currently divided into two large grassed fields – the separating hedgerow being of good quality, with some mature trees. There is a further smaller field (almost garden-like) adjacent to Ballycullen Road, at St. Columcille’s Well. The well is accessed by a small footbridge over the Orlagh Stream – which flows roughly parallel to Ballycullen Road in this area. There was a flow of water in the stream on the date of site inspection. There are unofficial, pull-in parking spaces for approximately four cars at the pedestrian access to the aforementioned well, on Ballycullen Road. There are two agricultural access points to the site from Ballycullen Road. To the southwest, the site abuts Old Court Road/Gunny Hill (R113) – the boundary with which is a dry ditch and a good-quality hedgerow with some mature trees. An original agricultural access to the site from this road has been closed-off. To the east, the site abuts agricultural land – the boundary with which is a good-quality hedgerow with mature trees. To the north, the site abuts the Abbot’s Grove housing estate – the boundary with which is 1.8m high timber fencing mounted on a concrete retaining wall. To the west, the site abuts Ballycullen Road – the boundary with which is a good-quality hedgerow with some mature trees. A site compound for Abbot’s Grove housing estate, was located at the northern end of Site B – but this area is now reincorporated into the adjoining field. The channel of the Orlagh Stream, (to the north of the site: within the Abbot’s Grove housing estate), has been engineered and provided with flood walls. There are 10kV electricity lines traversing the northern portion of the site. There is a 38kV pylon located within a hedgerow at the southern extremity of the site. The line extends overhead to the east of the site – but the pylon provides an end to the overhead section and cables would appear to be undergrounded at this point. The site slopes uphill from northwest to southeast – from approximately 114m OD to 141m OD. There is a granite stone cross located within the larger of the two fields on this site – unfenced.
- 1.4. Both Site A and Site B were dry underfoot on the date of site inspection. There are fine views from the southern sections of Site A and from most of Site B over the city and its suburbs to the north.

2.0 Proposed Development

- 2.1. Permission was sought on 1st June 2018, for a housing development of 65 no. residential units within two- and three-storey buildings, on Site A – comprising 51 houses and 14 apartments (8,310m²). There is a wide mixture of house types and apartment sizes proposed – in a series of detached and terraced units. Surface water discharge is to a public main within Stocking Lane to the north. Foul waste discharge is to a public main within the link road to the west. Water supply is from a public watermain within the link road to the west.
- 2.2. Outline permission was sought on 1st June 2018, for an educational campus: to comprise a 16-classroom, two-storey primary school; a 37-classroom, two-storey post-primary school; and a sports pitch (2.6ha) on Site B. The public footpath on Ballycullen Road will be extended south, as far as the entrance to the educational campus.
- 2.3. The application was accompanied by the following documentation of note-
- Planning Report – dated 31st May 2018.
 - Construction & Waste Management Plan for Site B – dated April 2018.
 - Category 1 Mobility Management Plan for Site B – dated April 2018.
 - Flood Risk Statement for Site B – dated April 2018.
 - Water Services Report for Site B – dated April 2018.
 - Archaeological Assessment – dated January 2018.
 - Landscape & Visual Appraisal – dated 29th May 2019.
 - Ecological Impact Statement – dated May 2018.
 - Screening for Appropriate Assessment – dated May 2018.
 - Lighting Design Report & Specifications – dated 27th October 2017.
 - Water Services Report for Site A – dated April 2018.
 - Flood Risk Assessment for Site A – dated April 2018.
 - Category 1 Mobility Management Plan for Site A – dated April 2018.
 - Construction & Waste Management Plan for Site A – dated April 2018.

- Traffic & Transport Assessment for Site A and Site B – dated April 2018.
- Landscape Report – dated 10th November 2017.
- Arboricultural Impact Report – dated 27th October 2017.
- Tree Survey Report – dated 27th October 2017.
- Series of 5 no. A3-size photomontages – dated 31st May 2018.
- Design Statement – dated May 2018.
- Letter indicating how it is proposed to comply with Part V of the Planning and Development Act, 2000, as amended, for Site A.

3.0 Planning Authority Decision

By Order dated 24th July 2018, South Dublin County Council issued a Notification of decision to refuse planning permission for 15 no. reasons, which can be summarised as follows-

1. Site A is indicated as a potential primary school site in the development plan and local area plan for the area. The proposed residential use would conflict with this zoning.
2. Proposal to construct two schools on lands zoned for rural use would set an undesirable precedent.
3. Provision of schools would contravene the objectives of the National Planning Framework.
4. Development would materially contravene CS Policy 1 and CS1 Objective 1 of the Development Plan, which seek to consolidate development in Consolidation Areas within the Gateway.
5. Location of schools on the periphery of zoned lands would be inconsistent with Regional Transportation policy. Development would promote unsustainable reliance on car-based transport on a substandard rural road network.
6. Development would materially contravene the Phasing Strategy set out in Sections 4 & 6 of the Ballycullen – Oldcourt LAP.

7. The housing development would not accord with the requirement for a minimum of 90% houses within a scheme; set down in the LAP.
8. Insufficient provision of public open space within the housing development.
9. Inadequate private open space for house types A2 & A3X.
10. Insufficient ecological information submitted.
11. Cut & fill would materially contravene Policy H16 of the development plan.
12. Schools on lands zoned 'RU' would conflict with ET Policy 9 Rural Economy.
13. Insufficient landscaping details submitted – including a tree survey.
14. Public notices incorrectly describe the proposed development. The 'relocation' of a specific objective in a Development Plan is a function of the elected representatives of SDCC.
15. An EIA of the development is required under Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended. No EIAR has been submitted with the application.

4.0 Planning History

There is no mention made of any recent relevant planning applications relating to either Site A or Site B. Ballycullen Road and Old Court Road/Gunny Hill (in the vicinity of Site B) are referenced in the application for the Dublin Mountain Visitor Centre (currently with An Bord Pleanála – ref. JA0040). This relates to transport options, to and from the proposed visitor centre.

5.0 Policy Context

5.1. Development Plan

The relevant document is the South Dublin County Development Plan 2016-2022.

- Site A is zoned objective 'Res-N' – “To provide for new residential communities in accordance with approved area plans”. Residential use is 'Permitted in Principle' within this zoning.

- There is a site-specific objective 'PS' to provide a 'Proposed Primary School' on Site A.
- Site B is zoned objective 'RU' – “To protect and improve rural amenity and to provide for the development of agriculture”. Education use is 'Open for Consideration' within this zoning.
- There is a site-specific objective 'PS' to provide a 'Proposed Primary School' on lands zoned 'RES-N and 'RU' – on the southwest side to Old Court Road – to the west of Site B.
- There are two Protected Structures within the boundary of Site B – a Stone Cross (RPS ref. 360) and St. Columcille's Well (RPS ref. 362).
- Core Strategy (CS) Policy 1 Consolidation Areas within the Gateway states- “It is the policy of the Council to promote the consolidation and sustainable intensification of development to the east of the M50 and south of the River Dodder'.
 - CS1 Objective 1 states- “To promote and support high quality infill development”.
- Housing (H) Policy 16 Steep or Varying Topography Sites states- “It is the policy of the council to ensure that development on lands with a steep and/or varying topography is designed and sited to minimise impacts on the natural slope of the site”.
 - H16 Objective 1 states- “To ensure that all developments including buildings, streets and spaces are designed and arranged to respond to and complement the site's natural contours and natural drainage features in accordance with the recommendations of the Urban Design Manual – A Best Practice Guide (2009)”.
 - H16 Objective 2 states- “To avoid the use of intrusive engineered solutions, such as cut and filled platforms, embankments or retaining walls on sites with steep or varying topography”.
- Section 3.11.0 of the Plan deals with educational facilities.

- C9 Objective 3 states- “To reserve sites for primary and post-primary schools provision in developing areas through approved Local Area Plans and Planning Schemes, in consultation with the Department of Education and Skills”.
- C9 Objective 4 states- “To require schools to be provided in new communities on a phased basis in tandem with the delivery of residential development, in accordance with the phasing requirements of Local Area Plans or approved Planning Schemes”.
- C9 Objective 6 states- “To ensure schools are located so as to promote walking and cycling, including the provision of adequate secure bicycle storage in all schools”.
- C9 Objective 10 states- “That a secondary school be built in the Firhouse/Ballycullen area over the lifetime of this plan to cater for the school going children of that area. Having regard to the primary school development on Carrigwood Green this objective should be met without further new school development on that site”.
- Economic and Tourism (ET) Policy 9 Rural Economy states- “It is the policy of the Council to support sustainable rural enterprises whilst protecting the rural character of the countryside and minimising environmental impacts”.
 - ET9 Objective 1 states- “To support and facilitate sustainable agriculture, horticulture, forestry and other rural enterprises at suitable locations in the County”.
 - ET9 Objective 2 states- “To support farm diversification and agri-tourism, where a proposed business initiative is subordinate to the primary agricultural use of the site, subject to traffic and environmental safeguards”.
 - ET9 Objective 3 states- “To protect agriculture and traditional rural enterprises from unplanned and/or incompatible urban development”.
 - ET9 Objective 4 states- “To support sustainable forestry development at suitable locations in the County, subject to the protection of the rural environment, sensitive areas and landscapes”.

- Section 11.3.1(iii) states- “The Planning Authority will require public open space to be provided as an integral part of the design of new residential and mixed use developments”. In particular, “In areas that are designated Zoning Objective RES-N all new residential development shall be required to incorporate a minimum of 14% of the total site area as public open space”.

5.2. Local Area Plan

The Ballycullen – Oldcourt Local Area Plan 2014, is of relevance. It stretches from the M50 in the east, almost as far as the R114 Ballinascorney Road in the west. Site A is located within, whilst Site B is located without – abutting the LAP lands to the north. The LAP comprises mostly Dublin Mountains foothills in agricultural use or recently-developed housing.

- Site A is indicated as a ‘School Site’; with future housing on lands to the south and future open space on lands to the southeast and east.
- Section 5.3.7 states, *inter alia*, “The minimum public open space requirements across the Plan Lands are set out in Table 5.2 below. In response to the peripheral location of the Plan Lands, the need to create a soft transition between the suburbs and countryside and the need to protect the setting of the Dublin Mountains including the sloping topography and natural heritage features, these minimum requirements exceed the requirements of the South Dublin County Council Development Plan, 2010 – 2016”. Table 5.2 goes on to indicate a minimum public open space requirement of 20% for Lower Slope Lands – within which category Site A falls.
- Recommended densities for Lower Slope Lands are between 32 and 38 dwellings per ha. (Table 5.4).
- Section 5.4.3 states- “In the context of the semi-rural and mountain setting of the area, this LAP allows for densities that would yield 90% or more houses in terms of dwelling mix”.
- On lands to the southwest of Old Court Road – there is a designation – ‘Site for Additional School’ – page 33 – where the identified school site has been expanded into lands zoned ‘RU’, outside of the LAP boundary.

- Page 37 gives an indicative layout for schools on both Site A and the Old Court Road site.
- Section 6.0 in relation to phasing, indicates that for both the eastern and the western sections of the LAP, Phase Four rationale – “A primary school on the eastern section of the LAP lands and a primary school and/or post primary school on the western section of the LAP lands will be required to meet the existing and new population needs of the Plan Lands and its surrounding suburban hinterland”.
- Section 6.0 goes on to state- “Two school sites are designated under this LAP to cater for the existing population demands of the surrounding area and the future population demands of the Plan Lands. Further to a Material Alteration of the Local Area Plan, the Oldcourt/Gunny Hill School Site has been increased by 1.2 acres to allow for a third school site. The Phasing Strategy provides the option of constructing the first primary school on either of the two school sites initially designated to serve the Plan Lands be it on the eastern or western side of the Plan Lands. Development on the eastern and western sides of the Plan Lands shall not enter into their fourth phase until the commencement of the planning process for the provision of a school on the designated primary school site on the eastern side of the Plan Lands OR on the designated primary school site and/or post-primary school site on the western side of the Plan Lands”.
- Appendix 1 has a Site-Specific Objective for the Stocking Avenue Primary School Site with an indicative site layout. The objective states-
 - A primary school site of at least 1.8 hectares shall be reserved on the western side of the Stocking Wood development in accordance with that designated under the *South Dublin County Council Development Plan, 2010 - 2016*. (**Objective SSP1**)
 - Any open green spaces and playing pitches developed as part of the primary school shall link with and integrate with the open space and sustainable urban drainage network planned under the Green Infrastructure Strategy (Section 5.3). (**Objective SSP2**)

- The double ditch and associated open stream on the eastern side of the primary school site shall be protected and enhanced as part of any development. **(Objective SSP3)**
- Surface water on the primary school site shall be intercepted by on-site SUDS features (i.e. green roofs, rainwater harvesters, soakaways and porous grass paviors for parking) and any run-off shall be discharged to the overall planned SUDS network. **(Objective SSP4)**
- Development of the primary school site shall address Stocking Avenue to the north with relatively strong and continuous built frontage. Staff parking, safe queuing and safe drop-off facilities shall be located to the side (west) and/or rear (south) of the main primary school building. **(Objective SSP5)**
- Pedestrian and cyclist access to any primary school development shall link with the pedestrian and cycle network planned under the Accessibility & Movement Strategy (Section 5.2) with access provided from Stocking Avenue and at least one more entrance along the western and/or southern sides of the primary school site. **(Objective SSP6)**
- In the interest of pedestrian and cyclist safety and movement, development of the school site shall include for the upgrade of the existing adjacent roundabout junction on Stocking Avenue to a four arm junction with pedestrian and cyclist crossing facilities. **(Objective SSP7)**

[I would note that the 2010 – 2016 Plan has now been replaced by the 2016 – 2022 Plan, and these site-specific objectives (SSP1-SSP7) would not appear to be incorporated into the new Plan].

- Objective Green Infrastructure GI33 states- “Public open space shall be provided at a minimum rate of 20% of development sites on the Lower Slope and Mid Slope Lands and 30% on the Upper Slope Lands. With the exception of lands located within the wayleave of 110kV and 220 kV overhead transmission lines, only public open spaces that fall within the hierarchy of

spaces and functions detailed in Table 5.3 (Section 5.2) shall be included in the calculation of public open space”.

5.3. Natural Heritage Designations

The two portions of this site are located neither within nor immediately abutting any natural heritage designation.

5.4. Landscape Character Assessment

The “Landscape Character Assessment of South Dublin County – 2015” document (indicated as having been updated in June 2016), identifies this area as being within the River Dodder and Glenasmole Valley LCA. The site immediately abuts the Urban LCA to the north.

5.5. Sustainable Urban Housing: Design Standards for New Apartments 2018

The Site A scheme contains a number of apartment and duplex units; so, these Guidelines are of relevance.

5.6. Sustainable Residential Development in Urban Areas: May 2009

The Site A scheme is a residential one; so, these Guidelines are of relevance.

5.7. Provision of Schools and the Planning System 2008

This Code of Practice for Planning Authorities, the Department of Education and Science, and the Department of the Environment, Heritage and Local Government, July 2008, is of relevance; where there is an outline planning application for an educational campus on Site B.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal from Tom Phillips & Associates, agent on behalf of the applicant, Jones Investments Ltd, received by An Bord Pleanála on 20th August 2018, can be summarised in bullet point format as follows-

- The Development Management Guidelines for Planning Authorities 2007, state that objectives should not impose a blanket prohibition on particular classes of development. Caution should be exercised when refusing permission on the grounds that the proposed development would materially contravene the development plan.
- The proposal addresses a long-term shortage in terms of community facilities – schools and playing pitches; and increases the housing supply.
- An integral part of the application is ‘objective/zone flipping’ – providing for a school at an alternative site in the vicinity – to allow for housing to be built on lands that are zoned for primary school use. This occurred in ABP case ref. PL 29S.228224, in 2007.
- A single application encompasses two distinct but connected sites. There are many precedents for such applications – such as the recent Children’s Hospital development.
- The objective to provide a school on Site A has been in place for 18 years. These lands have been effectively sterilised since then. The Department of Education and Skills has indicated no interest in the site in the short-term. The site is zoned for residential use – Res-N.
- The applicant has provided 1,573 houses in this area since 1996.
- Site A cannot contain a primary school, due to its limited size. Site B is less than 250m away. Site B can accommodate both a primary and a post-primary school. The proposed development would not contravene the zoning objectives for the area.

- Residential use is 'Permitted in Principle' on Site A. Having regard to the housing crisis in the state, housing should be permitted on this site.
- The applicant petitioned the Council to change the zoning of Site A in September 2015. However, the zoning objective was kept in the new Development Plan 2016-2022.
- Under the Urban Regeneration and Housing Act, 2015, local authorities are required to compile a 'vacant sites register' – beginning in January 2017. When faced with the possibility of having the site included on such a register, the applicant decided to seek to develop the site.
- Extensive pre-planning consultations were held with the PA and with the Department of Education & Skills.
- A post-primary school is needed immediately in this area. The Department of Education and Skills generally favours primary and post-primary schools on a campus arrangement. The Department of Education & Skills has signed contracts with the relevant landowner with a view to acquiring Site B.
- The Department of Education and Skills has no plans to provide a primary school in the Ballycullen-Oldcourt area in the next four years at least.
- Permission SD15A/0226 relates to permission granted for demolition of two temporary schools, and construction of two 16-classroom primary schools on Ballycullen Drive in Firhouse. On appeal by 3rd parties to An Bord Pleanála (**PL 06S.2245985**), permission was granted in June 2016. It was indicated that the Department of Education and Skills was temporarily locating a new post-primary school within one of the two permitted primary schools, given the shortage of post-primary schools in the area. A post-primary school on Site B would allow for the relocation of the temporarily housed post-primary school at Ballycullen Drive. The post-primary school on Site B could serve 1,000 pupils.
- The applicant is aware of section 247(3) of the Planning and Development Act, 2000, as amended, whereby pre-planning consultations cannot prejudice the performance by a PA of any of its functions. However, the applicant was

alerted to none of the issues raised in the fifteen reasons for refusal at pre-planning consultation stage.

- An oral hearing should be held in this case given the significant local issues involved. The repercussions of a refusal of permission on the local community must be averted by compelling SDCC to substantiate why it has chosen to ignore consideration of the merits of this case, contrary to the requirements of section 7.15 of the Development Management Guidelines for Planning Authorities, 2007.
- The development is compliant with the National Planning Framework. Site B is close to the built-up area of Ballycullen. An educational campus is ‘Open for Consideration’ on lands zoned for rural or agricultural use. SDCC has been involved in the identification of Site B for school use. The Ballycullen-Oldcourt LAP identifies lands across with road as suitable for a primary school site – to the west of Old Court Road – on lands partially zoned RES-N and partially zoned RU’. This site has similar attributes to Site B of the current application. Schools are an appropriate form of development on rural lands. There has been no application for a primary school on the Old Court Road site, to date.
- The proposal will consolidate development in Ballycullen. Much-needed educational infrastructure will contribute to consolidation. The development will allow for the LAP to proceed to Phase 4, enabling the development of c.170 houses (110 units on the western side and 60 units on the eastern side of the LAP lands). As it stands, Section 6.0, page 39, footnote b) of the LAP states- “Development on the eastern and western sides of the Plan Lands shall not enter into their fourth phase until the commencement of the planning process for the provision of a school on the designated primary school site on the eastern side of the Plan Lands OR on the designated primary school site and/or post-primary school site on the western side of the Plan Lands”. The PA acknowledges that a primary school will be required on the eastern section of the LAP lands and a primary school and/or post-primary school will be required on the western section of the LAP lands.
- The schools site is not ‘unzoned’ land – rather land that is zoned ‘RU’.

- The application was accompanied by a Traffic & Transport Assessment and a Category 1 Mobility Management Plan, which concluded that the road network in the area had the capacity to deal with the development; and indicated means of encouraging a switch from private car use.
- The proposed housing mix is necessary to achieve the density required in national guidelines. It is noted that section 5.4.3 of the LAP states- “In the context of the semi-rural and mountain setting of the area, this LAP allows for densities that would yield 90% or more houses in terms of dwelling mix”. Apartments are necessary to provide the minimum 34 units per hectare density required by local and national policy. The site is within the Lower Slope lands of the LAP, on which a density of 32-38 units per hectare is expected. The Board has consistently required densities in line with national guidance in relation to strategic housing decisions.
- The quantum of open space provided is compliant with development plan standards. Objective Green Infrastructure GI33 of the LAP, requires that sites located on the Lower Slope lands should have a minimum of 20% open space. Section 11.3.1 of the County Development Plan requires RES-N zoned lands to have 14% open space. Where LAP and County Development Plan standards/objectives conflict – the Development Plan takes precedence. Some 17% of the site is given over to open space use.
- Private open space provided is compliant with development plan standards. House types A2 and A3X are compliant with Table 11.20 of the Plan.
- The ecological information submitted is sufficient. Impacts on Site B cannot be gauged due to the nature of the application. A number of ecological surveys accompanied the application – including screening for appropriate assessment. Only limited information was submitted for Site B. Further information would be provided with any subsequent application for permission. The Department of Culture, Heritage and the Gaeltacht, and the Parks Department of SDCC, both recommended additional information rather than refusal of planning permission. The development is in compliance with the Habitats Directive.

- The engineering required on Site B would not be so different to Site A – with regard to cut & fill. The development will be required to comply with Part M of the Building Regulations. The Ballycullen – Oldcourt LAP lands contain sloping topography, and development must be laid out to respect the contours and avoid retaining walls and extensive cut & fill operations. There is a fall of 12m within Site A.
- Development of schools and pitches would not contravene ET Policy 9 of the Development Plan, in relation to social or economic connection to the area. Educational use is ‘Open for Consideration’ on lands zoned ‘RU’.
- Sufficient landscaping details have been submitted for Site A. A landscaping masterplan was submitted with the application. Boundary details have been indicated. A tree survey was submitted for Site A. The application for Site B is for outline permission only. More detailed surveys would accompany any application for permission.
- Public notices do provide a clear and accurate description of the development. If the notices were incorrect, the PA should have invalidated the planning application.
- The proposed development is sub-threshold: therefore, no EIA is required. The development does not come within Class 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended. Both Sites are ‘greenfield’ in nature, and lie in the foothills of the Dublin Mountains. Site B is rural in nature. Therefore, the threshold is 20ha – Class 10(b)(iv). Even considering the criteria set out in Schedule 7 of the 2001 Regulations, the development is not likely to have significant effects on the environment. There will be no significant cumulation with other development. The area is not environmentally sensitive.

6.1.2. The appeal is accompanied by the following documentation of note-

- Appendix B – list of development works in Knocklyon/Ballycullen, carried out by Jones Investments.
- Appendix C – letter from Department of Education and Skills (dated 24th May 2018), relating to this planning application at Site B.

- Appendix D – Press release (dated 13th April 2018) from Minister for Education and Skills in relation to 42 new schools to be built over the next four years.
- Appendix E – newspaper article in relation to 17-acre site acquired for new secondary school at Ballycullen Road.

6.2. Planning Authority Response

The response of SDCC, received by An Bord Pleanála on 7th September 2018, indicates that all issues have been dealt with in the Planner's Report on the file.

6.3. Observations

There are two observations from St. Anne's GAA Club and from Knocklyon United Football Club, received by An Bord Pleanála on 13th and 14th September 2018, respectively. The observers support the application, on grounds that the proposed schools will provide pitches and potential recruits to their respective clubs.

7.0 Oral Hearing

- 7.1. The applicant requested that an oral hearing be held.
- 7.2. On 10th January 2019, the Board directed that an oral hearing should not be held.

8.0 Assessment

The principal issues of this appeal relate to Development Plan/Local Area Plan polices/objectives and zoning, housing layout & design, access and archaeology.

8.1. Development Plan & Other Guidance

- 8.1.1. The third reason of the Notification of decision to refuse permission, stated that the provision of schools at Site B would contravene the objectives of *Project Ireland 2040: National Planning Framework*. Whilst there may be good planning reasons not to grant outline planning permission for Site B in the current circumstances, I would not consider that the proposed development could be said to contravene the

NPF. This document is a broad framework relating to national issues. The location of one, or indeed two, schools on a site does not come within the scope of this document. The document itself makes no reference to schools in the foothills of the Dublin Mountains.

- 8.1.2. The *South Dublin County Development Plan 2016-2022*, and the *Ballycullen – Oldcourt Local Area Plan 2014*, hereafter referred to as the Plan and the LAP, are relevant to this application. Because the LAP was adopted prior to the current Development Plan, some references within it are to the previous Plan – and not all policies from the old Plan were brought over into the new Plan. In general, the LAP is far more detailed in relation to this area of Ballycullen, than the Plan is. Site A is within the LAP boundary, whilst Site B lies just outside it. Reference is also made in the appeal documentation to a schools site on Old Court Road (to the west of Site B) which is partly within and partly without the LAP boundary. Where reference is made to the eastern side and western sides of the Plan lands within the LAP document – the Ballycullen Road seems to be the dividing line. Therefore, both Site A and Site B are located on the eastern side of the LAP lands, whilst the school site on Old Court Road, is located on the western side of the LAP lands.
- 8.1.3. Site A is zoned ‘RES-N’ – “To provide for new residential communities in accordance with approved area plans”. In this instance, there is an ‘approved area plan’ – the *Ballycullen – Oldcourt LAP 2014*. There is a site-specific objective ‘PS’ to provide a Proposed Primary School on Site A. According to the 1st Party appellant, this objective has been in place since 2000, without any advance towards constructing a school on the site. The ‘PS’ objective has had the effect of sterilising this land from residential development, at a time when residential development is required to meet the housing crisis within the state.
- 8.1.4. The applicant has put forward a scheme for relocating the primary school required on site A, to a campus on Site B – where a primary school and post-primary school would be co-located. This scheme is referred to as ‘objective/zone flipping’. The primary school site is to be flipped outside the boundary of the LAP into lands zoned ‘RU’ – “To protect and improve rural amenity and to provide for the development of agriculture”. School use is ‘Open for Consideration’ on ‘RU’ zoned lands. South Dublin County Council rejected this proposal, and reason no. 1 of the Notification of Decision to refuse permission reflected this thinking. The making of a development

plan or a local area plan is a reserved function of the elected representatives of SDCC, following on from a lengthy process where proposals are outlined, drafts prepared, interested parties consulted and amendments made. The applicant petitioned SDCC to change the zoning of Site A in September 2015, during the course of the making of the South Dublin County Development Plan 2016-2022. However, it would appear that the elected representatives were not willing to alter the specific 'PS' zoning objective. It is open to the elected representatives to amend a Development Plan: it would not appear that they have considered this option in relation to housing on Site A. Such an option would give those interested, an opportunity to comment on any proposed changes to an adopted development plan or local area plan. It is wholly inappropriate for individual applicants to seek to change a development plan or local area plan outside of the plan-making or plan-altering processes – particularly where such plans have been drawn up following extensive public consultation. Planning permission and outline planning permission should be refused on zoning grounds in this instance. The appellant makes reference to an instance where An Bord Pleanála made a decision which gave rise to a similar effect, in 2007. I have not examined the details of that case, and would consider that each case should be dealt with on its merits. The merits of this case require that the elected representatives of South Dublin County Council adopt development plans and local area plans, and not individual landowners, however persuasive their arguments might or might not appear.

- 8.1.5. An observation from the Department of Education and Skills to SDCC, dated 18th July 2018, indicates that Site B has been identified as a potential option – in conjunction with SDCC. The Department has signed contracts (subject to planning) with the relevant landowner, with a view to acquiring these lands. The development of a post-primary school is supported by the Department. Whilst the immediate needs of the Department relate to a post-primary school, the Department has no objection to the inclusion of a primary school as part of the masterplan for a campus arrangement. The Department's requirements are that the primary school provision is required within the overall LAP area, as set out in previous submissions made by the Department to South Dublin County Council in the context of local area and development plans. The location of this primary school within the overall LAP area is a matter for the local authority. The Department supports the development of a post-

primary school on Site B, and the Department has no objection to the current proposal to relocate the primary school on Site B. The position of the Department of Education and Skills is clearly set out. Notwithstanding this, SDCC is the plan maker in this area, and the development of Site B as a schools' campus is not provided for within either the Plan or the LAP.

- 8.1.6. The appellant has indicated that the Department of Education and Skills has indicated no interest in Site A in the short-term. It is further indicated that there is no plan to build a national school in the Ballycullen/Oldcourt area in the next four years – as per a press release from the Minister for Education and Skills (dated 13th April 2018), in which announcement was made of 42 new schools to be constructed over the next four years within the state. The appellant notes that permission was granted by the Board in June 2016, for two new primary schools on the one site, on Ballycullen Drive. These schools have since been built, and one has been occupied as a post-primary school, arising from the urgent need for such a school in the vicinity. These schools are located approximately 1.4km from Site A – by road. The Department of Education and Skills, it is indicated by the applicant, has a requirement for a post-primary school in the area. The Ballycullen – Oldcourt LAP indicates a location for such a post-primary school on lands on Old Court Road (within the western lands of the LAP, and extending across the boundary of the LAP in lands zoned 'RU' outside the LAP boundary). The *Code of Practice on the Provision of Schools and the Planning System (2008)*, refers to the challenge of “identifying and making available suitable sites for new schools in a timely manner, integrated with new residential development and at reasonable cost”. It is further stated that- “The provision of any new schools (both primary and post-primary) should be driven by and emerge from an integrated approach between the planning functions of planning authorities and the Department of Education and Science”. On p.9 it is stated that planning authorities will- “Work closely with the Site Acquisitions and Property Management Unit of the Department of Education and Science in assessing specific land requirements for schools, including the assessment of the suitability of particular sites, thereby ensuring an agreed basis for schools' provision in the development plan and local area plan processes”. At p.10 it is stated that the Department of Education and Science will- “Collaborate with planning authorities in finalising the appropriate policies and objectives, including objectives with regard to

sites for new schools, to be inserted into development plans and local area plans”. On the same page it is stated that Planning Authorities will- “Seek to situate new schools within the existing/proposed catchment in a manner that aids ease of access from surrounding areas and encourages sustainable mobility by walking, cycling and public transport”. I note that Site A has been identified as a ‘Primary School site since 2000 – before the *Code of Practice* came into effect. The appellant states that the Department of Education and Skills has signed contracts with the relevant landowner (not stated) with a view to acquiring Site B. It is open to the Department of Education and Skills to purchase any lands considered appropriate. The purchase of such lands does not amount to a rezoning of such lands, or to any guarantee that permission will be granted for an educational use on the lands. South Dublin County Council has consistently held to the view that Site A is the appropriate one for a primary school on the eastern lands of the LAP, and I would agree with that assessment. The site is located on a Dublin Bus Route, with a frequent service; is served by a distributor road which links the site with other lands within the LAP (and on which there are bicycle lanes); and finally, is located in the midst of the Stocking Wood, Woodstown, Dalriada and Abbot’s Grove housing developments, with lands to the south of the site zoned for future residential development. This site is to be preferred to Site B, which is on the fringe of the built-up area, does not benefit from the same road and public transport connectivity, and is located uphill of the housing developments it is intended to serve; and which would discourage cycling and walking, and lead to a greater dependence on the private car to deliver children to, and collect them from, school. The proposed development would conflict with *The Provision of Schools and the Planning Systems – Code of Practice (2008)*, and with Development Plan C9 Objective 3, C9 Objective 4 and C9 Objective 6, in relation to reservation of sites for primary schools, phased provision in association with housing, and location which would promote walking and cycling. Permission and outline permission should be refused for this reason.

- 8.1.7. Reason no. 4 of the Notification of decision to refuse planning permission related to conflict with CS Policy 1 and CS1 Objective 1. Site A is zoned for residential use, notwithstanding the site-specific objective ‘PS’. The lands are within an LAP – the purpose of which is to promote the orderly and sustainable development of the lands within the LAP boundary. Whilst CS Policy 1 states that the Council will promote the

consolidation and sustainable intensification of development to the east of the M50 and south of the River Dodder, this does not require that housing proposals outside of that area must be refused permission – particularly where the Council has zoned lands for development. The proposed housing development is on an infill site, and constitutes high-quality infill development, (but does not comply with the site-specific ‘PS’ requirement).

- 8.1.8. Reason no. 9 of the Notification of decision to refuse planning permission, related to conflict with ET Policy 9, relating to support for sustainable rural enterprises whilst protecting the rural character of lands zoned ‘RU’. Whilst the construction of an educational campus does not relate to agriculture, horticulture, forestry or other rural enterprise, it is nonetheless a use which is ‘Open for Consideration’ within this zoning. This is not a valid reason to refuse outline permission for an educational campus on lands zoned ‘RU’.
- 8.1.9. The *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages)* – issued by the Department of Environment, Heritage and Local Government in May 2009, are of relevance in this instance. Chapter 5 deals with cities and larger towns. Sites located on good public transport corridors, such as this one, are appropriate for higher-density development. The Guidelines refer to minimum net densities of 50 units per ha. However, Outer Suburban/‘Greenfield’ sites are recommended for densities between 35 and 50 units. Section 5.11 goes on to state- “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”. The proposed density on Site A is 34.2 units per ha. I would be satisfied that this is close enough to the lower density of 35 units per ha, recommended for housing on Outer Suburban/‘Greenfield’ sites.
- 8.1.10. The *Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities* – issued by the Department of Housing, Planning and Local Government in March 2018 are of relevance in that they apply to all housing developments that include apartments. An Bord Pleanála is required to have regard to the Guidelines. Specific Planning Policy Requirements (SPPRs) within the Guidelines take precedence over any conflicting policies and objectives of development plans or local area plans. The relevant SPPRs are as follows-

- The scheme does not include more than 50% one-bedroom units – as per SPPR1.
- The floor areas of all apartment/duplex units are in excess of the minimum floor areas set down in SPPR3.
- All apartments are dual aspect – in excess of what is required by way of SPPR4 for suburban schemes.
- Ground level apartment floor-to-ceiling heights are in excess of 2.7m for all relevant units – as per SPPR5.

In relation to the minimum standards included at Appendix 1 of the Guidelines, I am satisfied that all apartment units comply with the minimum overall floor areas; minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms; minimum bedroom floor areas/widths; minimum aggregate bedroom floor areas; minimum storage space requirements; minimum floor areas for private amenity space; and minimum floor areas for communal amenity space. I note that floor-to-ceiling heights for ground floor units are only 2.6m – just below the required 2.7m. In the event of a grant of planning permission issuing from the Board, it would be possible to impose a condition requiring compliance with the Guidelines in relation to floor-to-ceiling heights.

8.2. Design & Layout for Site A

- 8.2.1. The design and layout of housing at Site A, is based on a series of short culs de sac, off a spine road running east/west through this small development. Roads are generally 4.8m in width, and there are a series of raised platforms at junctions with culs de sac – which function as traffic-calming measures. Because of the sloping nature of the site (a difference of approximately 10m from north to south), retaining walls will be required at both the southern and northern boundaries. This has necessitated the provision of stairs and ramps within the open space fringe on the northern boundary – to provide pedestrian connection with Stocking Avenue.
- 8.2.2. Units are mostly terraced, with detached and semi-detached units on the western and southern boundaries. The scheme comprises a mix of two- and three-storey blocks – many of which are located close to the footpath, and contribute to the

creation of streetscape within the development. Units have been specifically designed to provide corner features. Almost all apartments are contained within duplex units – two-storey houses over ground floor apartments – with the upper units accessed via external staircases. All duplex units are provided with external terraces. There is just one other apartment building – with two units (Type E & F) within the one block.

- 8.2.3. External finishes comprise a mixture of painted render, white brick, stone cladding, hardwood doors, aluminium windows and grey roof tiles. These finishes are acceptable, and reflect what has been undertaken within surrounding developments.
- 8.2.4. Permission was refused, because more than 90% of the scheme did not comprise houses – as opposed to apartments (No. 7 of the Notification of decision to refuse permission). As a fraction of 65 units, 14 apartments represent 21.5% of the total. Section 5.4.3 of the LAP states- “In the context of the semi-rural and mountain setting of the area, this LAP allows for densities that would yield 90% or more houses in terms of dwelling mix”. This would not appear to require that 90% of dwellings comprise housing units. The applicant has argued that the inclusion of apartment units is necessary, in order to bring the housing density above 32 units per ha. This would appear to be entirely reasonable – particularly in light of the density requirements set down in the *Guidelines on Sustainable Residential Development in Urban Areas*. A number of the housing estates in the vicinity contain apartments – particularly those flanking distributor roads. There is no good reason to require a residential development to contain a minimum of 90% housing units, particularly one where there is such a good Dublin Bus service located on Stocking Avenue.
- 8.2.5. An ESB sub-station is to be located in the southwestern corner of the site – next to a truncated turning area.
- 8.2.6. There are three separate communal bin stores indicated on drawings. In two instances, they are on the opposite side of the road from the residential units which they serve. This constitutes poor design, and would result in excessive journeys for residents, and also lack of superintendence of such communal facilities – in the absence of a caretaker. One of the bin stores is located immediately adjacent to the entrance to the development.

- 8.2.7. The County Development Plan requires a minimum of 14% public open space for this zoning. The LAP requires 20% open space on Lower Slope lands (such as this site). It is acknowledged that this quantum exceeds that required in the County Development Plan, and the rationale given is the need to protect the setting of the Dublin Mountains and the sloping topography. The applicant argues that the County Development Plan should take precedence, and contends that 17% of the site has been given over to public open space – which exceeds the 14% required. Open space is located on the edges of the development – principally to the north and east. That area to the north will be of little amenity value – located immediately adjacent to the Stocking Avenue distributor road. The ground in this area is sloping and the open space area narrow. Access is to be provided by way of stairs and ramps. Its amenity value will be largely visual – separating residential units from Stocking Avenue. The open space area on the eastern boundary is long and narrow and its amenity value will be purely visual. This area contains mature trees, and is an attractive area – immediately abutting open space within the adjoining Stocking Wood Copse housing estate. These two areas of open space are separated by a deep ditch (dry on the date of site inspection). The Parks & Landscape Services/Public Realm Section of SDCC considered the public open space arrangement to be unacceptable, and recommended a revised layout; with a more centrally-located area of public open space to serve Site A. A recommendation that additional information be requested in relation to a landscape masterplan and a comprehensive Tree Survey for the eastern and southern boundaries of Site A was also made. A recommendation for a request for additional information in relation to Site B was made; particularly in relation to trees, sports facilities to be provided, and a landscape masterplan. Permission was refused for this development on grounds of inadequate provision of public open space (no. 8) at Site A. I would agree with this assessment by SDCC. There is no active open space area immediately abutting Site A. The layout of open space proposed would be detrimental to the amenities of future residents, and permission should be refused for this reason.
- 8.2.8. Private open space is provided to the rear of all houses. Permission was refused due to inadequate provision of private open space for house types A2 & A3X – reason no. 9 of the Notification of decision to refuse permission. There are seven no. A2 houses within the scheme. Rear garden areas vary from 61m² to 70m².

However, where rear gardens are 61m², there are first floor roof terraces over kitchen extensions to bring the total up to 70m². This level of private open space is acceptable. There are four no. A3X houses within the scheme. Rear garden areas vary from 70m² to 73m². This is an acceptable amount of private open space for such houses.

- 8.2.9. Reason no. 11 of the Notification of decision to refuse planning permission on Site A, related to conflict with Housing (H) Policy 16 – relating to steep or varying topography. A number of housing developments in the immediate area exhibit examples of retaining walls and structures – necessitated by the sloping ground which is, after all, within the foothills of the Dublin Mountains and has been zoned for development. Whilst the policy requires development to complement natural contours, this may not always be possible. I would be satisfied that whilst some use is made of retaining walls within the northern open space area along Stocking Avenue, cross section drawings indicate that the development has had regard to the natural slope. The same may be said for Site B, where in the positioning of school buildings regard has been had to the sloping nature of the site – insofar as can be ascertained from the limited drawings submitted with an outline planning permission application. The exception to this might be the playing pitch where extensive cut & fill would be required to provide a level area.

8.3. Design & Layout for Site B

- 8.3.1. The layout of the proposed educational campus is given in indicative form for the purposes of the outline permission. The primary school is located at the northern end of the site, the secondary school in the middle section, and the playing pitch at the southern end. School buildings are indicated as being two-storey, but there are no detailed drawings submitted with the outline planning permission application. Buildings are set back from Ballycullen Road – the intervening space being given over to access roads/footpaths, cordons around Protected Structures and open space generally. Extensive cut & fill will be required to create a level playing pitch at the southern (most elevated) section of the site. Such an amount of earth moving will require extensive landscaping to blend the platform into the surroundings. The site is an elevated one, and it will be necessary to carefully design buildings to blend into the landscape.

8.4. Access & Parking for Site A

- 8.4.1. Access to the proposed residential scheme is from a link road on the western boundary of Site A. This truncated road (off a roundabout on Stocking Avenue), currently serves as access to a part of the Abbot's Grove housing estate to the west. The road is intended to serve lands (as yet, undeveloped) to the south. Further pedestrian access to the site is to be provided in the northeast corner – from Stocking Avenue. The application is accompanied by a Traffic and Transport Assessment – dated April 2018. Vehicular traffic entering and leaving a small residential development, such as the one proposed, will not have any significant impact on traffic in the area – particularly in the context of the recently-constructed distributor road network in the area.
- 8.4.2. Parking within Site A is a mixture of shared spaces and curtilage spaces immediately to the front of houses. There are 122 parking spaces indicated on drawings submitted. Two parking spaces per house are indicated – leaving a total of 20 spaces to serve 14 apartments – at a rate of 1.5 spaces per unit. This provision meets with Development Plan standards of 1.0 parking space per one-bedroom unit; 1.25 parking spaces per two-bedroom unit; 1.5 parking spaces per three-bedroom duplex unit; and 2.0 parking spaces for houses with three or more bedrooms. The application is accompanied by a Category 1 Mobility Management Plan – dated April 2018. The area is accessible by footpaths, and there are a number of cycle lanes of varying quality – particularly on Stocking Avenue. Dublin Bus routes serve Stocking Avenue.
- 8.4.3. I would be satisfied that the proposed access and parking arrangements would not result in traffic hazard or obstruction of road users.

8.5. Access & Parking for Site B

- 8.5.1. Development within Site B will be accessed from Ballycullen Road. The 50kph speed restriction applies on this road, which is wide enough for two vehicles to pass. Sight distances in either direction could be provided, by ensuring that flanking hedgerows are kept trimmed back, and by the provision of a footpath on the entrance side of the road. I note that a section of the Abbot's Grove housing estate to the north is accessed from Ballycullen Road. There are no footpaths and there is

no public lighting on the Site B stretch of Ballycullen Road. The Outline application states that the public footpath on Ballycullen Road (to the north of the site) will be extended to the south, as far as the proposed entrance. The Design Statement (May 2018), submitted with the application, states on p.17 – “The Ballycullen Road has been recently upgraded to facilitate the Abbots Grove development and it is proposed to continue the Road widening as far as the entrance to the school site”. Cycle lanes would need to be provided on both sides of Ballycullen Road, together with a signal-controlled pedestrian crossing, at very least, at the site entrance. This is more particularly the case where there is only one vehicular/pedestrian entrance to the site. With the development of other lands within the LAP, it would be desirable to create a further pedestrian/bicycle entrance to the site in the future.

- 8.5.2. Some 114 car-parking spaces and some 660 bicycle-parking spaces are to be provided. This quantum is in accordance with Development Plan standards. However, detailed plans would be submitted at planning permission stage.
- 8.5.3. The application is accompanied by a Category 1 Mobility Management Plan – dated April 2018. The wider area is accessible by footpaths, and there are a number of cycle lanes in the area, of varying quality. Dublin Bus routes serve Stocking Avenue to the north. I would be concerned that there are no bus routes serving this section of Ballycullen Road – necessitating a walk of approximately 0.6km to reach Stocking Avenue from the school buildings. The bicycle route requires an uphill climb to the schools of approximately 25m elevation over this same 0.6km distance. Public lighting would have to be extended along Ballycullen Road as far as the site entrance, to facilitate safe cycling and pedestrian movements. I would be concerned that the gradient in this area would act as a deterrent to cyclists – particularly younger children.
- 8.5.4. The National Transport Authority, in a report dated 5th July 2018, recommended against granting outline permission for the schools’ campus, on the grounds that the location is a peripheral rural one, relative to the residential areas which it is to serve. There is poor connectivity with lands zoned for residential use to the north and west. There is no provision made for cycle networks to serve Site B. There are no proposals to extend the bus network to serve Site B. The development of Site B would promote unsustainable reliance on travel by car, and would discourage those who may wish to access the development on foot, which is inconsistent with the

Transport Strategy for the Greater Dublin Area 2016-2035, the South Dublin County Development Plan and the Ballycullen – Oldcourt LAP. The Roads Department of SDCC was opposed to the proposed development for similar reasons as set out by the NTA. The road network in the area was not considered adequate to deal with heavy traffic at peak school times – particularly in the absence of public transport options.

8.6. Water

8.6.1. Water Supply for Site A

The water supply for Site A will be from an existing 150mm diameter public watermain within the link road on the western boundary. Irish Water had no objection to this proposed arrangement.

8.6.2. Foul Drainage for Site A

The foul drainage for Site A will be via a connection to the existing 225mm diameter public sewer in the link road on the western boundary. Irish Water had no objection to this proposed arrangement.

8.6.3. Surface Water for Site A

The surface water for Site A will be discharged to the 375mm diameter public surface water sewer within Stocking Avenue on the northern boundary. Permeable paving is to be provided throughout the scheme. A 'Stormtech', subsurface, attenuation system, of 668m³ capacity is to be provided within the open space area on the northern boundary of the site; with an 'Hydrobrake' outfall throttled to 13 litres/second. An hydrocarbon interceptor will be provided on the outfall, downstream of the 'Hydrobrake' mechanism. The Water Services Section of SDCC had no objection to the proposal.

8.6.4. Water/Drainage for Site B

Educational campus proposals are outline only, and so there is no detail of proposed water connections or drainage connections and surface water attenuation. Water supply is stated to be from a 150mm diameter public watermain within Abbot's Grove estate to the north. Water supply will be metered. Foul effluent is stated to be discharged to the 225mm diameter foul sewer within Abbot's Grove. It is indicated

that SuDS measures will be put in place to attenuate and treat surface water. An hydrocarbon interceptor will be installed on the outfall to the Orlagh Stream. There is no water quality monitoring carried out on the Orlagh Stream at present. Neither Irish Water nor the Water Services Section of SDCC, had any objection to the proposal.

8.6.5. I would be satisfied that the proposed development would not be prejudicial to public health, for either Site A or Site B.

8.6.6. Flooding Site A

The application is accompanied by a Flood Risk Assessment for Site A – dated April 2018. The site slopes uphill from north to south. There are no watercourses either within or immediately abutting the site – the closest being the Orlagh Stream which flows along the east side of Ballycullen Road (sometimes in culvert). There is a dry ditch within the belt of mature trees on the eastern boundary and a further dry ditch within the hedgerow on the southern boundary. There is no record of any flooding in the immediate area. The site is within Flood Zone C – where the risk of flooding is lowest. I would be satisfied that the site is not at risk of flooding and would not contribute to flooding – subject to compliance with appropriate Sustainable urban Drainage System measures put in place.

8.6.7. Flooding Site B

The application is accompanied by a Flood Risk Statement for Site B – dated April 2018. The Orlagh Stream flows inside the western boundary of this site. The Flood Extent Map from the South Dublin County Council Strategic Flood Risk Assessment 2016-2022, indicates that a small portion of the northwestern part of the site is within Flood Zone A. The planning application for Site B is outline only. It is stated that no essential infrastructure will be located within this part of the site – this area being given over to open space. A specific Flood Risk Assessment for the site would accompany any application for full planning permission. I would be satisfied that the majority of the site is not at risk of flooding, and that the development outlined would not contribute to flooding – subject to compliance with the appropriate Sustainable urban Drainage System measures for such a scheme – which would be detailed at full permission stage.

8.7. Archaeology

- 8.7.1. There are two Protected Structures located within Site B – St. Columcille’s Well (RPS no. 362); and a Stone Cross (RPS no. 360) – dating from the 19th Century. The well is also a Recorded Monument (DU022-028). These features first appear on OS maps of 1906/09. As the application for Site B is outline only, there are no detailed plans for the development. The site layout map indicates that the area around both of these Protected Structures is to be open space – with footpaths constructed to allow for ease of access to both. At present, there is pedestrian access from Ballycullen Road, for visitors to St. Columcille’s Well, but not to the stone cross. The stone cross is and has been used as a scratching post for cattle and horses – not being fenced-off. The application was accompanied by an Archaeological Assessment (dated January 2018), which includes colour photographs. A field inspection was carried out on 10th October 2017. Mitigation measures outlined suggest that the Protected Structures be cordoned-off during construction. Underwater archaeology may be necessary along the stream on the western boundary of Site B – regard being had to proximity of the holy well. All topsoil stripping and site investigations should be monitored by an archaeologist. Site A has been subject to spoil deposition in the recent past. There are no known archaeological remains in the area, however, it would benefit from archaeological monitoring in the event that permission is granted, arising from the location of a townland boundary to east and south and having regard to the extent of the site.
- 8.7.2. The eastern and southern boundaries of Site A comprise townland boundaries. Dry ditches and hedgerows and trees are likely to be of higher significance as a result. These boundaries are to be retained in full, with only minimal removal of mature trees on the eastern boundary. Spoil has been deposited on the western side of Site A, which may have impacted on archaeological deposits which may exist beneath the surface.
- 8.7.3. The Architectural Conservation Officer of SDCC considered that an Architectural Impact Assessment would be required; arising from the presence of two Protected Structures within Site B. It was felt that visual impact on the setting of the two Protected Structures and access arrangements were not sufficiently detailed. I would consider that such could be required at full application stage. The applicant

has indicated that the proposed development will be set back a substantial distance from the both features.

- 8.7.4. I would further consider that it would be possible to attach a condition to any grant of planning permission which might issue from the Board, requiring archaeological monitoring of all Site A excavations.

8.8. **Landscape & Visual**

The application is accompanied by a Landscape and Visual Appraisal – dated 29th May 2018. This appraisal is accompanied by a series of five photomontages. The area in the vicinity of Site A is characterised by advancing suburban development. The mature trees on the eastern boundary are, for the most part, to be retained. The southern boundary hedgerow is of poor quality, and does not serve any landscape or visual amenity function. The area in the vicinity of Site B is more open in character – agricultural land surrounded by good-quality hedgerows with mature trees. There are no listed views or prospects from roads in the immediate vicinity of the site. The site is located within the River Dodder and Glenasmole Valley LCA – as per the *Landscape Character Assessment of South Dublin County 2015* – something which is not referred to in the documentation submitted with the application. For this LCA, the landscape sensitivity is rated ‘High’; for visual sensitivity it is rated ‘High’; for overall landscape sensitivity it is rated ‘Medium/high to High’; for landscape value it is rated ‘High’; and for landscape capacity it is rated ‘Negligible’. This latter is further qualified- “Key Characteristics of the landscape are highly vulnerable to development. Development would result in a significant change in Landscape character and should be avoided if possible”. I would see no difficulty with Site A in landscape terms. However, Site B is considerably more elevated – between 114m OD and 141m OD. Extensive cut & fill would be required to construct the playing pitch at the southern (most elevated) end of the site – where level differences of as much as 13m must be overcome. Roadside boundary hedgerows with mature trees are to be retained, and together with landscaping of the site, would serve to integrate the development into its immediate surroundings. However, from further afield to the north, the site would be particularly visible on this elevated ground. There is a good-quality hedgerow with mature trees and a dry ditch, separating the two big fields on this site. This hedgerow would have to be removed to facilitate development. It

would be desirable to retain some of the mature trees within this hedgerow. Mature trees and hedgerows around St. Columcille's well are to be retained. Any grant of planning permission should require a detailed tree survey to be submitted with any application for permission – in order to retain the maximum number of trees and hedgerows on Site B.

8.9. **Appropriate Assessment**

The application is accompanied by a Screening for Appropriate Assessment – dated May 2018. This assessment details potential impacts on bird species within Dublin Bay and the impacts on water quality from discharges from Ringsend Wastewater Treatment Plant. The closest European site is the Glenasmole Valley SAC (Site code 001209) – located within a different river catchment – approximately 2.8km to the west-southwest. The Wicklow Mountains SPA (Site code 004040) is located approximately 3.5km to the southeast, whilst the Wicklow Mountains SAC (Site code 002122) is located slightly further away. Both of these European sites are located uphill of the proposed development. Site A is no longer in agricultural use and consists of a rank field, whilst Site B remains in agricultural use – improved grassland for the most part, subdivided by hedgerows. The Orlagh Stream ultimately connects Site B with Dublin Bay, via the Dodder and Liffey Rivers – some 17.5km downstream through the suburbs of Dublin. There are a number of European sites within Dublin Bay. It is proposed to connect all development to public sewers and to attenuate and treat surface water. During construction, appropriate measures will be put in place to prevent siltation of watercourses or to deal with accidental spillage of hydrocarbons. An existing agricultural access to the site from Ballycullen Road is to be used. This access utilises a culvert constructed on the Orlagh Stream, and there is no proposal to alter this arrangement.

It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site; and Stage 2 Appropriate Assessment is not, therefore, required.

8.10. Environmental Impact Assessment

Planning permission was refused by SDCC, on grounds that the application should have been accompanied by an Environmental Impact Assessment Report (EIAR) – reason no. 15 of the Notification of decision to refuse permission. The reason given related to the opinion of SDCC that the proposed development came within a class of development for the purposes of Part 10 – set out at Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended. Class 10 relates to ‘Infrastructure projects’. Class 10(b)(i) refers to ‘Construction of more than 500 dwelling units’. The proposed development clearly does not breach this threshold. Class 10(b)(iv) refers to ‘Urban development which would involve an area of 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. Site A comprises 1.9ha, and is zoned for residential use, and could be considered to be within a built-up area – having housing developments on three sides. Site B comprises 8.24ha, and is zoned “To protect and improve rural amenity and to provide for the development of agriculture”. The site is almost entirely surrounded by other agricultural land – except along a small length of the northern boundary where it abuts the Abbot’s Grove housing estate. This site cannot be considered to be part of the built-up area of the county. Rather, it would fall within the ‘20 hectare elsewhere’ category. I would note that outline planning permission has been sought for the educational campus. It is not possible to seek outline planning permission for a development which would require environmental impact assessment – article 96(1) of the Planning and Development Regulations, 2001, as amended.

Notwithstanding that the proposed development does not come within Class 10(b)(iv) of Part 2 of Schedule 5, housing development is of a class under 10(b)(i), and so requires screening for environmental impact assessment. In this context, significant impacts only are of concern. Sixty-five dwelling units represents 13% of the class threshold of five hundred units. The site does not form part of any other residential development. The project is not in any manner different in character or scale from what exists around it. There will be no significant change to topography or waterbodies, although the construction of a playing pitch will involve some degree of cut and fill to produce a level area. There will be no extraordinary use of non-renewable resources involved in the construction of the development. The

development will not involve the use, storage, transport, handling or production of substances which would be harmful to human health or the environment. The project will produce limited effluent (to be discharged to mains sewers). There will be no release of other pollutants or hazardous/toxic/noxious substances. There will be no risk of contamination of land or water from releases of pollutants to ground, or into surface waters, ground waters, coastal waters or the sea. The development will not result in any significant noise or vibration or result in release of light, heat, energy or electromagnetic radiation. There will be no risk to human health related to water contamination or air pollution. There will be no major accident risk that could affect human health associated with the construction of this development. The project will not significantly affect the social environment, in terms of population or employment. The development does not form part of a wider large-scale change which could result in cumulative effects on the environment. The lands are zoned, and would have been considered in the strategic environmental assessment of the County Development Plan. The site is not located within or immediately adjoining any sensitive ecological designation. The Ecological Impact Statement submitted with the application indicates that there are no important or sensitive species of flora or fauna which use the site for breeding, nesting, foraging, resting, over-wintering or migration. There are no features of landscape, historic, archaeological or cultural importance which could be affected (apart from St. Columcille's Well and a Stone Cross), around which suitable cordons have been established. There are no areas in the vicinity which contain important, high-quality or scarce resources which could be affected by the development. There are no water resources (including rivers, lakes/ponds, coastal or groundwater) in the area which could be affected by the development – particularly in terms of flood risk. The site is not susceptible to subsidence, landslides or erosion. There are no transport routes in the vicinity which are susceptible to congestion or which cause environmental problems, which could be affected by the proposed development. The M50 at some distance is subject to peak hour congestion at times. There are no existing sensitive land uses or community facilities (such as schools or hospitals) which could be affected by the project. The project, together with existing and/or approved development would not result in cumulative impacts either during construction or operational phases. The project will not result in any transboundary impacts.

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded.

8.11. Other Issues

8.11.1. Development Contributions

Permission is sought for a housing development on Site A. As permission was refused by SDCC, there is no assessment of the Development Contribution which would have been paid, should the development proceed. If the Board is minded to grant planning permission for this development, then it would be appropriate to attach a condition requiring payment of a development contribution in accordance with the requirements of the South Dublin County Council Development Contribution Scheme 2016-2020. The rate indicated for residential development is €90.42 per square metre. In the event that the Board is minded to grant outline planning permission for the educational campus, it should be noted that it is not practice to apply development contributions to such permissions, and in any event, there is an exemption for all primary and secondary schools (subject to certain provisions).

8.11.2. Part V

The application for housing on Site A is accompanied by a letter from the applicant, indicating how it is proposed to comply with Part V of the Planning and Development Act, 2000 (as amended). It is stated that there is a four-unit carry-over from two previous schemes by the same applicant at Dalriada and Abbot's Grove. This results in a requirement for two units within the proposed scheme. Apartments D2 & D2.1 are proposed. As planning permission was refused, there is no indication given as to whether this proposal was acceptable. If the Board is minded to grant planning permission for this housing development, then a condition should be attached requiring compliance with Part V.

8.11.3. Waste

The application was accompanied by Construction & Waste Management Plans for both Site A and Site B (dated April 2018). Spoil has been deposited on the western section of Site A. Within this spoil, there was evidence of domestic waste protruding

from the ground, on the date of site inspection by this Inspector. Such waste would have to be removed to a licensed disposal site. This is not referenced in the Construction & Waste Management Plans submitted for Site A. Construction compounds will be located within the respective site boundaries. Waste contractors with appropriate permits will be utilised during the site development and construction phases. If the Board is minded to grant planning permission for the housing development on Site A, then a condition should be attached requiring submission of a Construction Waste & Demolition Management Plan – to be submitted for the written agreement of the planning authority – and to deal with the excavation, storage and disposal to a licensed waste facility of domestic waste which has been deposited on the western side of Site A.

8.11.4. Ecology & Landscaping

The application was accompanied by an Ecological Impact Statement – dated May 2018; an Arboricultural Impact Report – dated 27th October 2017; Tree Survey Report – dated 27th October 2017; Tree Protection Strategy – dated 27th October 2017; and Landscape Report – dated 10th November 2017. There are no ecological designations either within or immediately abutting the site. Site A comprises disturbed agricultural ground and fallow land, with evidence of spoil being deposited on the western half of the site. Construction work at Site A will not require removal of hedgerows. However, 8 no. category C trees and 7 no. category U trees on the eastern boundary are to be removed due to their condition – out of a total of 47 such trees (approximately one third of the trees on the eastern boundary). Removal of these trees, and clearance of scrub/undergrowth will improve the amenity value of the area, increase security, and discourage anti-social behaviour. I note that many of the trees surveyed appear to be outside the red line eastern boundary of Site A – within the adjoining Stocking Wood Copse housing estate. The two sites are separated by a deep dry ditch.

Site B comprises improved agricultural grassland with good-quality hedgerows and some mature trees bounding the fields: a small area on the northern boundary was formerly used as a site compound for construction of houses within Abbot's Grove (and currently constitutes recolonising bare ground). No badger setts were encountered during site survey. The Orlagh Stream is not suitable habitat for Otter. Mature trees on site could be suitable habitat for bats. No bat survey was

undertaken. The application at Site B was for outline permission only. Access to Site B will utilise an existing agricultural access from Ballycullen Road, and no new crossing of the Orlagh Stream will be required. The stream will remain open, and will not be culverted. A good-quality hedgerow with some mature trees (dividing the two large fields on this site) will have to be removed to facilitate development. The loss of habitat will be mitigated by the landscaping of the site. Site clearance can affect nesting birds or roosting bats. Recommendations are made for such works at appropriate times and under appropriate supervision – stopping short of stating that such measures will be implemented. Measures are suggested to avoid siltation of the Orlagh Stream – again stopping short of stating that such measures will be implemented. The application at Site B is outline in nature – and the grant of outline permission would not authorise any works within the site.

The application was referred to the Department of Culture, Heritage and the Gaeltacht for comment. The report from the Development Applications Unity of the Department, dated 9th July 2018, recommend additional information in relation to botanical and habitat surveys of Sites A & B and a bat survey. Having regard to the location of Site A on lands zoned for residential use, and to the existence of residential development on three sides of the site, I would not consider that either a habitats survey or bat survey for this site is required. In relation to Site B, which is largely improved agricultural grassland, the necessity for a habitat and botanical survey would seem to be unnecessary. However, a bat survey of such a large site would be of use – particularly where the central hedgerow (with mature trees) is proposed for removal. Having regard to the recommendation to refuse permission for this development, I do not see that requiring the applicant to undertake a bat survey for Site B would be reasonable.

8.11.5. Public Notices

Permission was refused on grounds that the public notices did not accurately reflect the nature of the proposed development (reason no. 14 of the Notification of decision to refuse permission). I would be satisfied that the public notices did accurately reflect the nature of the development proposed. It was open to SDCC to require the applicant to re-advertise the development, or indeed to invalidate the application, if it was not satisfied with public notices.

8.11.6. Electricity Cables

There are electricity cables traversing the northern portion of Site B. These would likely have to be diverted to facilitate the development. There is a 38kV pylon located at the southern extremity of Site B. Overhead cables to this pylon (from the east) would appear to be undergrounded within the site. This area of the site is to be given over to a playing pitch, the construction of which will require a considerable operation of cut & fill. It is not clear just where the underground cables are located within Site B – or even if the line is still in use.

8.11.7. Vacant Sites Register

The applicant has attempted to justify the construction of housing on Site A by reference to the possibility that the site may be included on the Derelict Sites Register at some stage in the future. The most recent use of the site was agricultural, notwithstanding the deposition of spoil on the western portion and that the landowner has allowed the field to grow rank. It would be possible to return this site to agricultural use.

8.11.8. Pre-Planning Consultations

The appellant argues that in pre-planning consultations with SDCC, no indication was given that permission would be refused for 15 no. reasons. The appellant notes section 247(3) of the Planning and Development Act, 2000, as amended. Pre-planning consultations cannot tie the hands of the PA in relation to any decision which may ultimately be made. In any event, the application is now before the Board, and is to be considered *de novo*.

8.11.9. Precedent

Reason no. 2 of the Notification of decision to refuse planning permission, related to the undesirable precedent of granting outline planning permission for schools on lands zoned 'RU'. The applicant has correctly pointed out that school use is 'Open for Consideration' within the zoning matrix contained within the County Development Plan. If the PA considered that schools were fundamentally at variance with the zoning, then the use should not have been indicated as being 'Open for Consideration' within this zoning; or if it was to be included, that the 'Open for Consideration' designation be in some way qualified, either by way of size, location, replacement use etc.

9.0 Recommendation

I recommend that permission be refused for the housing development at Site A and that outline permission be refused for the school campus at Site B, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. The proposed housing development at Site A would materially conflict with a site-specific objective 'PS', in the current Development Plan for the area, to provide a 'Proposed Primary School' on the site. In particular, C9 Objective 3 seeks "To reserve sites for primary and post-primary schools provision in developing areas through approved Local Area Plans and Planning Schemes, in consultation with the Department of Education and Skills". The proposed development would conflict with this objective and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed housing development at Site A would materially conflict with the zoning objective for this site, as set out in the Ballycullen – Oldcourt Local Area Plan 2014; wherein the site is identified as a 'Designated Primary School Site'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposal for a schools' campus at Site B, would jeopardise the achievement of objectives to provide primary schools on Site A, and also on a site on the southwest side of Oldcourt Road (to the west of Site B); which has been expanded to potentially provide for a third school, as identified in the current Development Plan for the area and in the Ballycullen – Oldcourt Local Area Plan 2014. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
4. The layout of public open space within site A is seriously substandard, and would provide little or no active amenity use for residents of the housing scheme. It is poorly located, relative to the housing which it is to serve. The proposed development would, therefore, be detrimental to the amenities of

future residents, and contrary to the proper planning and sustainable development of the area.

5. The location of the schools' campus, on a site which is peripheral to the residential areas which it is intended to serve; located uphill of the housing which it is to serve; not connected to the public transport network in the area; and not integrated with pedestrian and cycle networks in the area; would result in unsustainable reliance on travel by car, and would discourage those who may wish to access the development on foot or by bicycle, and would result in the creation of traffic hazard and obstruction of road users, in an area where there is only one proposed vehicular access to the site, on an unaligned section of Ballycullen Road, which is without public footpaths, public lighting and cycleways. The proposed development of Site B would be contrary to C9 Objective 6 of the Development Plan for the area, which states- "To ensure schools are located so as to promote walking and cycling...". The proposed development would conflict with this objective and would, therefore, be contrary to the proper planning and sustainable development of the area.

**Michael Dillon,
Planning Inspectorate**

21st January 2019.