



An
Bord
Pleanála

Inspector's Report ABP-306617-20

Development

Residential development of 52 dwellings on a site measuring 2.66 hectares, located east of Bohernabreena Road & south of Oldcourt Road, and within the lands designated for the Ballycullen-Oldcourt Local Area Plan 2014 (as amended), in the townlands of Bohernabreena, Dublin 24. The proposed development is comprised of 1 no. three storey, 4 bed detached house; 1 no. two storey, 3 bed detached house; 32 no. two and three storey, 3 & 4 bed semi-detached houses and 18 no. 1 & 2 bed apartment units in 1 no. three storey apartment block. Access to the proposed development will be via the previously permitted Main Link Street for the Ballycullen-Oldcourt Local Area Plan (under Reg. Refs. SD17A/0041 & PL06S.249367), which includes permitted access off Bohernabreena Road. The proposed development also includes for all associated site

development works; car parking; open spaces; landscaping etc.

Location

Site east of Bohernabreena Road & south of Oldcourt Road, Bohernabreena, Dublin 24.

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD19A/0138

Applicant(s)

Capami Ltd.

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Decision

Appellant(s)

David & Anne Kennedy

Observer(s)

None.

Date of Site Inspection

21st May, 2020

Inspector

Robert Speer

1.0 Site Location and Description

1.1. The proposed development site is located at Bohernabreena, Dublin 24, in the foothills of the Dublin Mountains on the southern fringe of the built-up area of the wider city, in an area which has been earmarked for new residential development in the Ballycullen - Oldcourt Local Area Plan, 2014 (which encompasses an area of approximately 125 No. hectares of land at the southern fringe of the built-up area of South Dublin County which stretches across the foothills of the Dublin Mountains and forms a buffer between the suburban areas of Tallaght, Firhouse and Knocklyon, and the Dublin Mountains). It has a stated site area of 2.66 hectares, is irregularly shaped, and comprises an area of open farmland characterised by mature hedgerows and vegetation which is generally bounded by further undeveloped greenfield lands, although the wider area has been subject to considerable levels of new residential development, including the ongoing construction of the 'Dodderbrook' scheme which extends westwards from the R113 Regional Road / Oldcourt Road. Further north, the surrounding area is dominated by conventional suburban housing whilst the lands to the south rise steeply towards the Dublin Mountains. Access to the site is obtained via a local roadway (known as Bohernabreena Road) to the west which in turn extends from the R114 Regional Road / Bohernabreena Road. St. Anne's GAA Club and the Bohernabreena Cemetery (a short distance to the north and south of the site respectively) are also accessed from this road.

2.0 Proposed Development

2.1. The proposed development, as initially submitted to the Planning Authority, consists of the construction of 52 No. residential units as follows:

- 1 No. 4-bedroom, 3-storey, detached house (House Type B3: 146m²)
- 14 No. 4-bedroom, 3-storey, semi-detached houses (House Type B1: 146m²)
- 1 No. 3-bedroom, 2-storey, detached house (House Type C5: 121m²)
- 15 No. 3-bedroom, 2-storey, semi-detached houses (House Type C1: 118m²)
- 2 No. 3-bedroom, 2-storey, semi-detached houses (House Type C2: 128m²)

- 1 No. 3-bedroom, 2-storey, semi-detached house (House Type C4: 121m²)
- 1 No. three-storey apartment block comprising 6 No. one-bedroom apartments and 12 No. two-bedroom apartments.

2.2. Access to the proposed development will be obtained from Bohernabreena Road and the 'Main Link Street' for the Ballycullen-Oldcourt Local Area Plan previously approved under PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367 (which will ultimately link to the Oldcourt Road). Associated site development works include car parking, open spaces & landscaping etc. whilst water and sewerage services are available via connection to the public mains.

2.3. In response to a request for further information, amended proposals were subsequently submitted to the Planning Authority which included the following changes:

- The replacement of the apartment block with a two-storey scheme of 10 No. duplex units.
- Revisions to the design and layout of several of the house types (including a provision whereby House Types 'B' will maintain the height and appearance of a traditional 'two-storey house' with the option of the attic space being omitted by way of condition should the Planning Authority deem it necessary).
- The inclusion of a childcare facility / creche catering for 50 No. children.
- The redesign of Street 1 to provide for a shared surface etc. as per the provisions of the Design Manual for Urban Roads and Streets.

2.4. These revised proposals provide for the construction of a reduced scheme comprising 44 No. residential units as follows:

- 12 No. 4-bedroom, 3-storey, semi-detached houses (House Type B1: 146m²)
- 14 No. 3-bedroom, 2-storey, semi-detached houses (House Type C1: 118m²)
- 2 No. 3-bedroom, 2-storey, semi-detached houses (House Type C2: 128m²)
- 6 No. 3-bedroom, 2-storey, semi-detached houses (House Type C4: 121m²)
- 1 No. two-storey duplex block comprising 5 No. one-bedroom apartments and 5 No. two-bedroom apartments.

2.5. The proposed development was then revised further in response to a request for clarification with additional changes being made to the design and layout of several of the dwelling houses whilst it was also clarified that the proposed creche would cater for 74 No. children. The residential component (44 No. units) of this amended proposal consists of the following:

- 12 No. 4-bedroom, 3-storey, semi-detached houses (House Type B1: 146m²)
- 14 No. 3-bedroom, 2-storey, semi-detached houses (House Type C1: 118m²)
- 2 No. 3-bedroom, 2-storey, semi-detached houses (House Type C2: 128m²)
- 4 No. 3-bedroom, 2-storey, semi-detached houses (House Type C4: 121m²)
- 2 No. 4-bedroom, 2-storey, semi-detached houses (House Type C6: 138m²)
- 1 No. two-storey duplex block comprising 5 No. one-bedroom apartments and 5 No. two-bedroom apartments.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Following the receipt of responses to requests for further information and subsequent clarification, on 14th January, 2020 the Planning Authority issued a notification of a decision to grant permission for the proposed development, subject to 26 No. conditions. These conditions are generally of a standardised format and relate to issues including Part V, infrastructural works / services, public lighting, construction management, and development contributions, however, the following conditions are of note:

Condition No. 2: Requires the submission of amended plans, for the written approval of the Planning Authority, prior to the commencement of development, detailing a series of revisions to the site layout.

Condition No. 3: Refers to the phasing requirements of the Ballycullen-Oldcourt Local Area Plan and prohibits any occupation of the development in advance of the following:

- The completion of the Gunny Hill playing pitches, including the access arrangement.
- The submission of a valid planning application for a minimum of 300m² of community floorspace within the western extent of the LAP lands.

Condition No. 5: Refers to the implementation of the measures proposed in the bat survey.

Condition No. 7: Refers to pre-development archaeological testing.

Condition No. 10: Refers to landscaping, play areas / equipment, Sustainable Urban Drainage Systems, tree surveys / protection, and boundary treatment.

Condition No. 14: Refers to the operation of the proposed creche facility.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report stated that the principle of the development was acceptable having regard to the land use zoning and assessed the proposal in the context of the Ballycullen – Oldcourt Local Area Plan, 2014. It noted that the site was located on 'Mid-Slope Lands' designated for low density development (i.e. 22-28 No. dwellings per hectare) in the LAP and that although the net density of the development at 27.5 No. units / hectare was slightly below the guided figure it was nevertheless considered acceptable. However, the proposed dwelling mix, with specific reference to the over-representation of apartments, was deemed to be unacceptable whilst further concerns were raised with respect to key elements of the design and layout, including the proposed three-storey buildings, the relationship with the Main Link Street approved under PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367, the need for adherence to the Design Manual for Urban Roads and Streets, deficiencies in the landscaping details, concerns as regards the surface water drainage / SUDS arrangements, childcare provision, and the phasing requirements of the LAP. It was therefore recommended that further information be sought accordingly.

Following the receipt of a response to a request for additional information (the amended proposals included for the replacement of the apartment block with 10 No. duplex units thereby reducing the density of the scheme to 23 No. units / hectare), a further report was prepared which recommended that clarification be sought in respect of a number of items, including the capacity and hours of operation of the childcare facility, the design of Street 1, and the surface water drainage and attenuation arrangements.

Upon the receipt of clarification of further information, a final report recommended a grant of permission, subject to conditions.

3.2.2. **Other Technical Reports:**

Environmental Health Officer: No objection, subject to conditions.

Parks and Landscape Services: An initial report recommended that further information be sought in respect of a variety of issues, including the Sustainable Urban Drainage System, the need for tree surveys & an arboricultural impact assessment, the landscaping design & rationale, play provision, taking-in-charge requirements, and ecological considerations.

Following the receipt of additional information, a further report was prepared which recommended a grant of permission, subject to conditions.

Roads: A series of reports indicated that there was no objection to the proposed development, subject to conditions.

Housing Procurement: States that a condition requiring compliance with Part V of the Planning and Development Act, 2000, as amended, should be attached to any grant of permission.

Water Services: An initial report recommended that further information be sought in relation to the surface water drainage arrangements and the submission of a site-specific flood risk assessment.

Following consideration of the applicant's response to a request for additional information, a further report was prepared which stated there was no objection to the proposal from a flood risk perspective, subject to conditions. However, it was also indicated that clarification was required with respect to certain aspects of the surface water drainage proposals.

Upon the receipt of clarification of further information, a final report indicated that there was no objection to the proposed development from a water services perspective.

3.3. Prescribed Bodies

3.3.1. *National Transport Authority*: Refers to the Transport Strategy for the Greater Dublin Area, 2016-2035 and notes that concerns were previously raised with respect to PA Ref. No. SD17A/0041 as regards the consistency of the design of the proposed Main Link Street (which is intended to serve the wider Ballycullen Local Area Plan lands) with the National Cycle Manual. Whilst it acknowledges that some of those concerns were addressed on appeal by way of condition, the issue relating to the junctions between the Main Link Street and the side roads which serve residential development were not resolved. Therefore, the NTA recommends that the aforementioned concerns be addressed as part of the subject proposal as follows:

- Cycle tracks on the Main Link Street should be taken through the junctions with side roads (see Section 4.9 of the NCM).

3.3.2. *Department of Culture, Heritage and the Gaeltacht*: No objection, subject to conditions (including a requirement for pre-development archaeological testing on site).

3.3.3. *Irish Water*: No objection, subject to conditions.

3.4. Third Party Observations

3.4.1. A total of 7 No. submissions were received from interested third parties and the principle grounds of objection / areas of concern contained therein can be summarised as follows:

- Visual obtrusiveness / the proposal is out of character with the surrounding rural area.
- The inadequacy of the surrounding road network to cater for the increased traffic volumes.
- Increased traffic congestion.
- The endangerment of public safety by reason of traffic hazard.
- Detrimental impact on ecological and wildlife considerations.

- Urban sprawl and the need to prioritise ‘brownfield’ sites.
- The inadequate density of development and the inefficient use of land.
- The need for the development to be assessed collectively with neighbouring proposals (PA Ref. Nos. SD19A/0137 & SD19A/0139) and consideration given to the need for environmental impact assessment.
- The inappropriate siting of multiple access points onto the proposed link road.
- The inadequate provision of community services and amenities in tandem with the residential development.
- No dwelling should be occupied until such time as the Main Link Street approved under PA Ref. No. SD17A/0041 is completed.
- The proposal is premature pending the completion of the new bridge / roadway between Bohernabreena Road and Kiltipper Road (as detailed in the National Transport Strategy) and all associated road improvement works in the vicinity of Bohernabreena Road.
- There is a need for a comprehensive area-based transport assessment to be undertaken in advance of any further development of the LAP lands.
- The traffic report submitted in support of the application is based on out-dated traffic counts.
- The traffic impact assessment has assumed that the approved link road will be completed despite not being a requirement for the proposed development and thus has underestimated the traffic impact at the Old Mill junction.

4.0 Planning History

4.1. *On Site:*

PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367. Was granted on appeal on 2nd July, 2018 permitting HWBC Allsop and Capamie Limited permission for the construction of the Main Link Street as shown in the Ballycullen - Oldcourt Local Area Plan, 2014 with access onto the Oldcourt Road at Gunny Hill to the east and the Bohernabreena Road to the west. The Link Street consists of a single 7m wide carriageway including footpaths, cycle paths, bus bays, traffic calming measures,

public lighting and tree planted grass margins having total length of approximately 1,516m on a net development area of approximately 7.7 ha and will provide access and connections to lands designated for residential development in the Ballycullen Oldcourt Local Area Plan. The Link Street incorporates pipes and ducts to accommodate for future services including surface water attenuation and other piped and wire services. The Link Street will be constructed in part over the existing twin watermains that traverse the site and will follow as far as possible the existing contours of 109m to the west and 107m to the east with a mid-high point of 114m and a mid low point of 104m approximately, minimising cut and fill and will incorporate at grade pedestrian, vehicular and cycle junctions onto the Oldcourt and Bohernabreena Road. All on lands at Oldcourt & Bohernabreena, Tallaght, Dublin. PA Ref. No. SD19A/0137. Was refused on 7th October, 2019 refusing Capami Ltd. permission for a residential development of 73 dwellings on a site measuring 4.1 hectares within the lands designated for the Ballycullen / Oldcourt Local Area Plan, 2014 (as amended) comprising: 1 No. three-storey, 4 bed detached house; 36 No. two and three storey, three and four bed, semi-detached houses, 12 No. two-storey, three bed terraced houses and 24 No. one, two and three storey buildings; access will be via the previously permitted Main Link Street under Ref. SD17A/0041 & PL06S.249367 which includes permitted access off Bohernabreena Road; all associated site development works; car parking; open spaces; landscaping etc.

- Having regard to the objectives of the Ballycullen – Oldcourt Local Area Plan, 2014 and the following issues:
 - The need to omit units 37 and 38;
 - Interface between units 1-12 and 21-38 (due to retaining wall at their rear gardens), and the overbearing visual impact on the latter;
 - Use of retaining walls and associated impact on units 21-28 and unit 51;
 - Mix of units (too many duplexes on a Mid Slopes site – Objectives LUD3 and LUD6)
 - Duplexes (53-64 and 65-74) backing onto the footpath to the south;

The proposed development does not adequately address the matters raised in the request for additional information and would result in a development that does not provide adequate residential amenity, and would materially contravene the relevant objectives of the Local Area Plan and the 'RES-N' land use objective under the South Dublin County Development Plan, 2016-2022.

- The Main Link Street through the lands was permitted under SD17A/00412 and PL06S.249367. The grant of permission by An Bord Pleanála contains a number of conditions relating to proposed changes to the layout of the street. As some of the street is outside the control of the applicants in this case, the pre-commencement conditions relating to that street should be agreed prior to a grant of permission on these lands. Development of the kind proposed would therefore be premature pending the determination by the planning authority of the road layout for the area.
- The proposed mitigation measures contained in the Ecology Report, submitted with the significant additional information on 9th September 2019, have not been integrated into the proposed development. As such, the proposed development risks destroying important commuting routes for bats through the site.
- The applicant has provided inadequate proposals in relation to surface water infrastructure, and having regard to:
 - Proposed development and attenuation outside the applicant's control (blue line);
 - Under-provision of attenuation facilities for some catchment areas; and
 - Surface water discharging to road;

It is considered that the proposed development would not provide adequate surface water drainage and attenuation infrastructure and would therefore contravene Policy IE2 (in particular Objective 5) of the South Dublin County Development Plan, 2016-2022.

PA Ref. No. SD19A/0139. Was refused on 7th October, 2019 refusing Capami Ltd. permission for a residential development of 46 dwellings on a site measuring 4.1

hectares within the lands designated for the Ballycullen/Oldcourt Local Area Plan 2014 (as amended) comprising: 9 one storey, three bed detached houses; 1 two storey, three bed detached houses; 20 two storey, three and four bed semi-detached houses and 16 one and two bed duplex apartment units in 2 two storey buildings; access will be via the previously permitted Main Link Street under Ref. SD17A/0041 & PL06S.249367 which includes permitted access off Bohernabreena Road; all associated site development works; car parking; open spaces; landscaping etc.

- Having regard to the objectives of the Ballycullen – Oldcourt Local Area Plan, 2014 and the following issues:
 - A number of units (units 10, 17, 24, 31 and 37) side onto the streetscape and protrude beyond the building line, providing for poor urban design;
 - The central open space (in the vicinity of unit 17 and 43) is severely limited in terms of amenity value;
 - The development does not adhere to Local Area Plan objectives in relation to density and height and of development on upper slope lands (Objective LUD7);
 - Density to the south of the development does not reflect the LAP requirements for very low density development (approx. 12 units / ha) close to the southern fringe green buffer; and
 - The revised layout provides duplicate carriageways to serve some units (for example, units 6 – 10 and 40 - 42)

The proposed development does not adequately address the matters raised in the request for additional information and would result in a development that does not provide adequate residential amenity, and would materially contravene the relevant objectives of the Local Area Plan and the 'RES-N' land use objective under the South Dublin County Development Plan, 2016-2022.

- The proposed mitigation measures contained in the Ecology Report, submitted with the significant additional information on 9th September 2019, have not been integrated into the proposed development. As such, the

proposed development risks destroying important commuting routes for bats through the site.

- The proposed development would result in under-provision of attenuation facilities for some catchment areas. The proposed development would not provide adequate surface water drainage and attenuation infrastructure and would therefore contravene Policy IE2 (in particular Objective 5) of the South Dublin County Development Plan, 2016-2022.
- The Main Link Street through the lands was permitted under SD17A/00412 and PL06S.249367. The grant of permission by An Bord Pleanála contains a number of conditions relating to proposed changes to the layout of the street. As some of the street is outside the control of the applicants in this case, it is considered that the pre-commencement conditions relating to that street should be agreed prior to a grant of permission on these lands. Development of the kind proposed would therefore be premature pending the determination by the planning authority of the road layout for the area.

4.2. *On Adjacent Sites:*

PA Ref. No. SD17A/0121 / ABP Ref. No. PL06S.249294. Was granted on appeal on 23rd January, 2018 permitting Capami Limited permission for a residential development consisting of 133 No. dwellings and a crèche. Access to the development will be via an adjoining residential development known as Dodderbrook (permitted under register reference SD14A/0180) which is accessed from Oldcourt Road. The development is in accordance with the Ballycullen Oldcourt Local Area Plan 2014 being amended. The proposed development is comprised of three No. four-bed two-storey detached houses, 90 No. three and four-bed two-storey semi-detached houses, 27 No. three-bed two-storey terraced houses and 6 No. three-bed duplexes with 3 No. two/three-bed duplex apartments in a three-storey building and 4 No. two-bed apartments over two floors and a two-storey crèche (423m²). The proposed development also includes for all associated site development and infrastructural works, surface water with attenuation, piped and wired services, car parking, open spaces and landscaping, all on a site area of 4.64 hectares (11.4 acres), located south of Oldcourt Cottages and north of the ESB wires in the townland of Bohernabreena, Oldcourt, Ballycullen, Dublin.

PA Ref. No. SD18A/0376. Was refused on 18th February, 2019 refusing Michael Whelan permission for the importation of inert topsoil and subsoil from nearby residential lands at Dodderbrook and Ballycullen Green on Oldcourt Road and the spreading of the same material on agricultural lands measuring 2.6 hectares for the purposes of improving the quality of land for agricultural activity and all ancillary site works, at Oldcourt Lane, Oldcourt Road, Ballycullen, Dublin 24.

4.3. *Other Relevant Files:*

PA Ref. No. SD14A/0180. Was granted on 31st July, 2015 permitting Capami Ltd. permission for a residential development comprising 138 dwellings on a site area of 5.06 hectares; access to the development will be via a proposed new vehicular entrance from Oldcourt Road. The proposed development is comprised of 13 no. 4 bed 2 storey detached houses; 92 no. 3 & 4 bed 2 storey semi-detached houses; 25 no. 3 bed 2 storey terraced houses and 8 no. apartments in 4 no. 2 storey end of terrace units; all associated site development and infrastructural works, car parking, open spaces and landscaping. All at South of Oldcourt Road, Oldcourt, Firhouse, Dublin 24.

PA Ref. No. SD17A/0468. Was granted on 22nd October, 2018 permitting Capami Limited permission for a residential development comprising 64 dwellings on a site area of 3.8ha located south of Oldcourt Road. Access the development will be via a proposed new vehicular entrance from Oldcourt Road consisting of: 48 houses and 16 apartments comprising one 2 storey, 3-bed detached house, 24 2 storey, 3-bed semi-detached houses, 10 dormer, 2-bed semi-detached houses, 13 2-bed bungalows and 16 2-bed apartments in three 2 storey buildings. The proposed development also includes all associated site development works, car parking, open spaces and landscaping. All at Oldcourt Road, Firhouse, Dublin 24.

PA Ref. No. SD19A/0104 / ABP Ref. No. ABP-305800-19. Was granted on appeal on 30th March, 2020 permitting Capami Limited permission for a residential development of 24 No. dwellings on a site of 0.76 hectares. Access to the development will be via an adjoining development known as Dodderbrook (permitted under reference SD14A/0180). The proposed development is comprised of 8 No. two storey, four bed semi-detached houses, 12 No. two storey, three bed semi-detached and terraced houses, 4 No. two bed apartments in 1 No. two storey apartment block.

The proposed development also includes for all associated site development works, car parking, open spaces and landscaping including modification to an extant permission under reference SD14A/0180. Permission is also sought for the demolition of an existing detached dwelling on site, all located to south of Oldcourt Road, Oldcourt, Firhouse, Dublin.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. In general, appropriate locations for such increased densities include city and town centres, 'brownfield' sites (within city or town centres), sites within public transport corridors (with particular reference to those identified in the Transport 21 programme), inner suburban / infill sites, institutional lands and outer suburban / 'greenfield' sites. The proposed development site is located on lands that can be categorised as 'greenfield' and the Guidelines define such areas as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers, and ancillary social and commercial facilities such as schools, shops, employment and community facilities. Studies have indicated that whilst the land take of the ancillary facilities remains relatively constant, 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.
- 5.1.2. The '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*' (which update the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015*') provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in

the document, these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes. Furthermore, these Guidelines apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease. They also apply to housing developments that include apartments that are built specifically for rental purposes, whether as 'build to rent' or as 'shared accommodation'. Unless stated otherwise, they apply to both private and public schemes. These updated guidelines aim to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types. They also seek to ensure that, through the application of a nationally consistent approach, new apartment developments will be affordable to construct and that supply will be forthcoming to meet the housing needs of citizens.

- 5.1.3. The *'Urban Development and Building Heights, Guidelines for Planning Authorities, 2018'* are intended to set out national planning policy guidance on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in Project Ireland 2040 and the National Planning Framework. They aim to put into practice key National Policy Objectives contained in the NPF in order to move away from unsustainable "business as usual" development patterns and towards a more compact and sustainable model of urban development. Greatly increased levels of residential development in urban centres and significant increases in the building heights and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. In this regard, the Guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels. Moreover, Specific Planning Policy Requirement 4 states the following:

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

1. *the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines;*
2. *a greater mix of building heights and typologies in planning for the future development of suburban locations; and*
3. *avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more’.*

5.2. Development Plan

5.2.1. **South Dublin County Council Development Plan, 2016-2022:**

Land Use Zoning:

The proposed development site is located in an area zoned as ‘RES-N’ with the stated land use zoning objective ‘*To provide for new residential communities in accordance with approved area plans*’.

Other Relevant Sections / Policies:

Chapter 1: Introduction and Core Strategy:

Section 1.7.0: Settlement Strategy

Section 1.8.0: Phasing, Prioritisation and Infrastructure Delivery:

In terms of phasing, planning prioritisation and infrastructure delivery, it is advised that: (3) The Ballycullen/Oldcourt LAP area is a key growth node at the edge of the Consolidation Areas within the Dublin City and Suburbs including Key Metropolitan Consolidation Areas.

Chapter 2: Housing:

Section 2.2.0: Sustainable Neighbourhoods:

HOUSING (H) Policy 6 Sustainable Communities:

It is the policy of the Council to support the development of sustainable communities and to ensure that new housing

development is carried out in accordance with Government policy in relation to the development of housing and residential communities.

Section 2.2.1: Urban Design in Residential Developments

HOUSING (H) Policy 7 Urban Design in Residential Developments:

It is the policy of the Council to ensure that all new residential development within the County is of high quality design and complies with Government guidance on the design of sustainable residential development and residential streets including that prepared by the Minister under Section 28 of the Planning & Development Act 2000 (as amended).

Section 2.2.2: Residential Densities:

HOUSING (H) Policy 8 Residential Densities:

It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context

H8 Objective 5: To ensure that developments on lands for which a Local Area Plan has been prepared comply with the local density requirements of the Local Area Plan.

H8 Objective 6: To apply the provisions contained in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) relating to Outer Suburban locations, including a density range of 35-50 units per hectare, to greenfield sites that are zoned residential (RES or RES-N) and are not subject to a SDZ designation, a Local Area Plan and/or an approved plan, excluding lands within the M50 and lands on the edge or within the Small Towns / Villages in the County.

H8 Objective 7: To facilitate, in limited locations, four and five bed detached homes on lands that are appropriate to low density residential development.

Section 2.2.3: *Residential Building Height*

Section 2.2.4: *Mix of Dwelling Types*

Section 2.3.0: *Quality of Residential Development*

Chapter 6: Transport & Mobility:

Section 6.4.1: *Strategic Road and Street Network: (i) Road and Street Proposals:*

Table 6.5: Six Year Road Programme:

- Ballycullen-Oldcourt Street Network: Various streets within the Ballycullen-Oldcourt LAP lands: Formation of a strategic street network providing access throughout the site.

Section 6.4.3: *Road and Street Design*

Chapter 9: Heritage, Conservation and Landscapes

Section 9.2.0: *Landscapes*

HCL7 Objective 1: To protect and enhance the landscape character of the County by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the landscape, taking full cognisance of the Landscape Character Assessment of South Dublin County (2015).

HCL7 Objective 2: To ensure that development is assessed against Landscape Character, Landscape Values and Landscape Sensitivity as identified in the Landscape Character Assessment for South Dublin County (2015) in accordance with Government guidance on Landscape Character Assessment and the National Landscape Strategy.

The proposed development site is located within the ‘*Dodder and Glenasmole Landscape Character Area*’.

HCL8 Objective 1: To protect, preserve and improve Views and Prospects of special amenity, historic or cultural value or interest including rural, river valley, mountain, hill, coastal, upland and urban views and prospects that are visible from prominent public places.

Chapter 11: Implementation:

Section 11.2.0: Place Making and Urban Design

Section 11.3.1: Residential

5.2.2. *Ballycullen – Oldcourt Local Area Plan, 2014 (as extended):*

This LAP encompasses an area of approximately 125 No. hectares of land at the southern fringe of the existing built up area of South Dublin County which stretches across the foothills of the Dublin Mountains and forms a buffer between the suburban areas of Tallaght, Firhouse and Knocklyon, and the Dublin Mountains. On adoption, the Plan included approximately 90 No. hectares of undeveloped land zoned for new residential development / communities. It sets out a framework for the development of the plan area (with residential densities appropriate to the unique location of the lands on the suburban edge of the Dublin Mountain foothills) and provides for the construction of c. 1,600 No. new residential units in a phased manner as set out in Chapter 6 of the LAP.

- The subject site is located in an area which is predominantly categorised as comprising ‘partially constrained lands’ (although the 30m lateral clearance to either side of the existing 220kV overhead power lines that pass through the site is deemed to be ‘highly constrained’) and is also referred to as ‘mid slope low density’.
- Two development options are presented in the LAP, which differ in terms of the treatment of the existing 220kV overhead electrical transmission lines that traverse the western extent of the Plan area. Option A involves redirecting a c. 500m section of the overhead lines further to the south into the path of an existing wayleave for underground watermains. This is the preferred development option given that it would free up the less elevated and more level areas of the plan lands for development and allow for a more coherent arrangement of streets and blocks while grouping wayleave requirements for utilities into one channel. Option B represents an arrangement of streets and blocks around the current route of the overhead transmission lines and is the less preferred development option.

The Framework Strategies are indicative and may be amended by development where there is a strong justification and an element of planning gain demonstrated at application stage.

- The minimum open space requirement for the 'Mid Slope Lands' is 20% of the site area (Table 5.2 refers) which exceeds the CDP minimum requirement of 14% for 'RES N' lands.
- The density strategy responds to the peripheral location of the 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, its visual prominence, and natural heritage features such as hedgerows and streams. Densities also reflect the constraints created by the major utility lines that traverse the Plan lands. The strategy also reflects the need to counterbalance some of the higher density residential development that has taken place on the eastern side of the Plan lands and the absence of high quality public transport systems, particularly on the western (application site) side of the Plan lands.
- In developing the 'Mid Slope Lands', densities of 22 - 28 No. dwellings per hectare are 'required' (Table 5.4 refers).
- 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 (incl. the elevated and sloping context under the 120m contour of the Dublin Mountains) and accords with the core design principles on urban design, place making and street design as set out under the relevant government guidelines.
- The phasing strategy (Chapter 6) aims to ensure that the Plan lands are developed to help create a sustainable community by linking residential development to the delivery of infrastructure, amenities and community facilities (Section 6.3.2: Western Side of Plan Lands).
- 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.
- The appendix to the LAP details a series of objectives under various headings including accessibility & movement, green infrastructure, flood risk

management, topography and contours, dwelling mix and density, building design and heights, and development management standards on a range of matters.

5.3. Natural Heritage Designations

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Dodder Valley Proposed Natural Heritage Area (Site Code: 000991), approximately 1km north of the site.
- The Glenasmole Valley Special Area of Conservation (Site Code: 001209), approximately 1.3km southwest of the site.
- The Glenasmole Valley Proposed Natural Heritage Area (Site Code: 001209), approximately 1.3km southwest of the site.
- The Lugmore Glen Proposed Natural Heritage Area (Site Code: 001212), approximately 3.2km west of the site.
- The Wicklow Mountains Special Area of Conservation (Site Code: 002122), approximately 3.8km south-southwest of the site.
- The Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 5.0km southeast of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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 at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The proposed development is premature pending completion of the Main Link Road between Bohernabreena Road and Oldcourt Road as shown in the Ballycullen – Oldcourt Local Area Plan, 2014 and approved under PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367. Works on the link road have yet to commence and there is no indication or requirement in the grant of permission that the roadway will be completed in advance of, or even in conjunction with, the proposed development. Accordingly, all traffic will be required to access the site via Bohernabreena Road which is completely unsuitable for the increased volumes of traffic consequent on the proposed development.
 - There is insufficient capacity in the environs of Bohernabreena Road to accommodate the traffic volumes consequent on the development, particularly in advance of the completion of the Main Link Road.
 - The Bohernabreena Road is a rural roadway with substandard footpaths and no provision for cycle lanes. In the absence of substantial upgrading works, the proposed development gives rise to concerns as regards the health and safety of road users.
- Having regard to the provisions of the National Planning Framework and relevant Ministerial Guidance, the subject site should be developed at a minimum density of 30-35 No. units per hectare (net) whilst consideration should also be given to a higher minimum density of 45 No. units per hectare by reason of the accessibility of high frequency bus routes (Route Nos. A1 & 16) given that the subject lands are less than 15 minutes walking distance from these services (and will be less than 200m distant from those routes on completion of the Main Link Road which includes provision for bus stops to service the said routes). The net residential density of the development as originally proposed and subsequently revised / approved (i.e. 27.5 No. units / hectare and 23 No. units / hectare respectively) is considerably below that

prescribed in national guidance and therefore the proposal should be refused permission.

- Section 5.4.3 of the Ballycullen – Oldcourt Local Area Plan, 2014 targets densities that would yield 90% or more houses in terms of dwelling mix, however, the proportion / number of apartment / duplex units included in the development (i.e. 35% of the units originally proposed and 23% of the units as subsequently amended) fails to accord with the requirements of the Local Area Plan in respect of dwelling mix.
- The three-storey apartment block and the duplex units do not comply with Objective LUD6 of the Local Area Plan which requires development on the mid-slope parts of the plan lands (of which the subject site forms part) to comprise detached and terraced housing of no more than two storeys.
- The ‘mid-slopes’ are generally located within the ‘highly constrained’ areas of the LAP lands where the topography is increasingly elevated. The provision of three-storey development at this location would be out of character with the area and does not accord with the ‘mid-slope’ designation. Accordingly, the development fails to create a sense of place by way of design, siting, massing and height, and should be refused permission.
- The basis on which the conclusions contained in the Traffic and Transport Report (dated April, 2019) were predicated can be shown to be completely erroneous and should not have been relied upon in the Local Authority’s assessment of the traffic implications of the proposed development. More specifically, the report suggested that:

‘it can be established that the impact of the proposed development will be less than that countenanced in the context of South Dublin’s assessment of the traffic implications arising from its approval of the main link road at Register reference SD17A/0041 and that as a consequence no further analysis has been undertaken’.

This conclusion is flawed for the following reasons:

- The grant of permission for the main link road under PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367 was predicated by a Traffic

& Transport Assessment Report dated February, 2017, the scope of which essentially entailed the application of an indexation factor to a previous traffic assessment and count undertaken as part of earlier planning applications for residential developments lodged by the applicant dating back to 2014 and 2015.

- A subsequent application lodged by the applicant (PA Ref. No. SD17A/0121) for the development of 133 No. dwellings was accompanied a Traffic Impact Assessment which was based on the same 2014 & 2015 traffic counts as PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367 (the Main Link Road). However, a Manager's Order prepared in respect of PA Ref. No. SD17A/0121 noted that the traffic counts utilised in support of that residential development had been undertaken 3 No. years earlier in the context of the 2014 / 2015 applications and, therefore, it was considered that the TIA had failed to take account of all permitted developments in the area and further recommended that more up-to-date traffic counts be undertaken and used for calculation purposes i.e. a revised TIA was required. Accordingly, as recently as 2017 the Planning Authority is on record as requiring the submission of updated traffic counts as opposed to an extrapolation of the 2014 counts which form the basis of the traffic assessment provided with the subject application. By way of further comment, the revised TIA submitted in respect of PA Ref. No. SD17A/0121 (as appended to the grounds of appeal) noted traffic flows significantly greater than those referenced in the subject application.
- The traffic report submitted in support of the subject proposal continues to reference older base traffic counts rather than the latest 2017 figures.
- On the basis of the most up-to-date traffic counts as set out in the 2017 TIA, it can be determined that the morning peak traffic counts at the main junctions impacted by the proposed development will be substantially greater than those identified in the traffic assessment provided with the subject application. In this regard, account has been taken of the increased traffic arising from the development of the Main

Link Road in addition to the increased traffic volumes attributable to the LAP area being developed at twice the density (i.e. 1,500 No. units rather than 750 No. units) in light of current national guidance.

If anything, these traffic counts are considered to be underestimated as they do not take account of the further increase in traffic associated with the construction of 2 No. new schools within the LAP lands.

- It is inappropriate to rely on outdated reports which evaluated the traffic impact of completing the main link road when the subject proposal is not predicated on the completion of that roadway. Specifically, the traffic distribution countenanced in the traffic report undertaken for the link road, and against which the applicant has benchmarked the impact of the proposed development, assumes that the link road will be completed and thus traffic will accentuate to both ends of same. The subject proposal is predicated solely on access / egress via the Bohernabreena Road and, therefore, traffic movements towards the junction of Bohernabreena Road / Firhouse Road at the Old Mill Public House will be substantially greater than suggested thereby resulting in severe traffic congestion.
- In support of traffic congestion concerns at the junction of Bohernabreena Road / Firhouse Road, the Board is referred to the response of the County Manager to a recent motion (on 10th December, 2019):

Motion:

'That the Chief Executive reviews the traffic situation at the Old Mill junction of R114 and Killininney Road in view of the steadily worsening problem of tailbacks at peak times. The junction at Old Bawn Road / Firhouse Road / Bohernabreena Road suffers from congestion during peak hours. The demands on all approaches are significantly above capacity.'

Response of Chief Executive:

'The signal timings are generated using an automated signal optimisation process called SCOT. This seeks to maximise throughput at any given time. The operation of the junction is regularly reviewed and any improvement for a

given approach would be at a cost of severely increased delays to other approaches.

The situation is only really likely to improve through a significant modal shift in favour of walking, cycling, public transport and car sharing in that order as there are limited new roads planned for the area’.

It is considered that the foregoing is inconsistent with the position of the Planning Authority in its assessment of the subject proposal.

- No proposals have been provided to upgrade Bohernabreena Road in order to allow for safe access and egress to / from the site, particularly for pedestrians and cyclists. In this regard, it is submitted that no development should be permitted until such time as Bohernabreena Road has been upgraded, including through the provision of cycle lanes and pedestrian facilities, in order to address health and safety concerns (in support of the foregoing, the Board is referred to its determination of ABP-303957-19 wherein similar concerns arose).
- The National Transport Authority’s ‘*Transport Strategy for the Greater Dublin Area, 2016-2035*’ refers to the construction of a South Tallaght link road from Oldcourt Road (via Bohernabreena Road) to Kiltipper Road within Corridor ‘E’ (N81 Settlements - South Tallaght – Rathfarnham - Dublin City Centre). This is intended to link with the main link road being developed by the applicant through the LAP lands to Tallaght via Kiltipper Road thus alleviating the traffic congestion at the junction of Bohernabreena Road / Killininney Road. However, despite the Council having previously acknowledged the strategic need for this South Tallaght link road in earlier drafts of the County Development Plan, it has not been specifically included in the current Plan contrary to both proper planning and the NTA’s ‘*Transport Strategy for the Greater Dublin Area, 2016-2035*’. The development of this link road is critical to alleviating the road congestion that will arise as a result of any development of the Ballycullen-Oldcourt LAP lands, particularly in light of the inadequacy of the Bohernabreena Road and the need to substantially improve the road network in the immediate environs.

- No development of the LAP lands should be permitted other than in conjunction with the South Tallaght Link Road as envisaged in the NTA's '*Transport Strategy for the Greater Dublin Area, 2016-2035*'. Consequently, the proposed development is premature in advance of the aforementioned link road.
- The application site forms part of the wider Dublin Mountains area, which is of significant ecological value, however, the proposed development includes for the removal of certain trees and hedgerows in the absence of a suitable independent ecological report.
- Inadequate consideration has been given to the use of natural SUDs features within the development. Furthermore, the provision of substantial attenuation measures within those parts of the site earmarked as open space will undermine the functioning of those areas and the natural ecological evolution of same.

6.2. Applicant Response

- A number of contradicting arguments have been put forward which suggest that the appellants have no specific objection to the proposal and instead wish to delay and / or stop the development of lands which are subject to a Local Area Plan.
- Most of the concerns raised are irrelevant as they refer to development which has already been permitted and / or is outside the boundaries of the subject site and the control of the applicant.
- The proposed scheme puts forward a pragmatic development which balances the constraints of the subject lands, the requirements of the Local Area Plan, and supports national planning priorities as regards the delivery of new housing.
- The Main Link Street was approved on appeal under ABP Ref. No. PL06S.249367 and, therefore, the suggestion that the subject proposal is premature pending completion of the link road should be dismissed.

- The proposed development fully complies with the conditions attached to ABP Ref. No. PL06S.249367 and in no way contradicts, impedes or affects that permitted development (i.e. the Main Link Street).
- With regard to the commencement of the Main Link Street, the Board is advised that a pre-commencement compliance package has been submitted to the Planning Authority which is presently receiving attention. The works will be carried out in compliance with the conditions attached to the grant of permission and within the lifetime of the permission which is due to expire in July, 2023. The subject development will be accessed from the permitted Main Link Street and thus the construction of the roadway will be commenced in conjunction with the proposed housing etc. the applicant will adhere to a practical program of works which will ensure that the Main Link Street is delivered in tandem with new residential development within the LAP lands.
- With regard to the condition and capacity of Bohernabreena Road and other roads in the environs of same, it should be noted that said roads are outside of the application site and are not under the control of the applicant. Moreover, these issues were assessed in the Board's determination of ABP Ref. No. PL06S.249367 with the inspector concluding that *'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 prevailing circumstances have not changed in the intervening 18 No. months and thus these concerns should be dismissed.
- The scale and density of the proposed development is appropriate when all of the contextual constraints and requirements of the LAP are considered (an ESB wayleave, the LAP requirement for 20% open space provision, and the site topography). The subject proposal achieves an appropriate balance and will ensure that the lands are developed efficiently and with due regard to the environs.
- The proposed development fully supports the National Planning Framework e.g. National Policy Objective 32: *'To target the delivery of 550,000 additional households to 2040'*. The subject lands have long been vacant and the

submitted proposal represents the first phase of residential development on this large zoned landbank.

- Cognisance must be had to the site context on the ‘*suburban-rural fringe*’ and its location on the periphery of the county boundary where proper planning will involve a gradual transition from urban to rural rather than an abrupt divide. This is the rationale behind the categorisation of the LAP lands into differing ‘*slope*’ and ‘*constraint*’ areas and the requirement for varied densities of development.
- With regard to the reference to the ‘*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*’, the subject proposal is not an apartment scheme and only includes an element of apartments & duplexes. In any event, the apartment / duplex units meet the required standards for gross floor areas and internal spaces.
- The subject lands could, at best, be described as an ‘*Intermediate Urban Location*’, however, the Guidelines states that ‘*The range of locations is not exhaustive and will require local assessment that further considers these and other relevant planning factors*’. Given the unique context of the lands, at the foothills of the Dublin Mountains and bordered largely by open space and agricultural fields, a Local Area Plan was prepared and it is considered that compliance with same is the best way to achieve the appropriately balanced development of the area. In this regard, the proposed development substantially complies with the LAP.
- Arising from the identification of the application site as ‘mid slope’, the LAP recommends that it should primarily comprise low density residential development of 22-28 dwellings / hectare. The subject proposal (as originally lodged) put forward a gross density of 19.5 dwellings / hectares and a net density of 27.5 dwellings / hectare. The revised scheme submitted in response to a request for further information (as subsequently granted) proposed a gross density of 16.5 dwellings / hectares and a net density of 23 dwellings / hectare. The density proposed is therefore in full compliance with the LAP.
- The density proposed is based on several contextual constraints:

- The presence of ESB wires / wayleaves passing through the site / LAP lands.
- The need to provide 20% open space in accordance with Objective GI33 of the LAP.
- Restrictions on building heights and the number of apartment / duplex units.

The applicant has done the utmost to comply with every objective of the LAP and to accommodate the requests of the Planning Authority. The development layouts, both as originally sought and subsequently revised, comply with the net density range sought by the LAP.

- Whilst acknowledging the objectives of the National Planning Framework as regards seeking an increase in compact urban forms and a general increase in apartment developments etc., the NPF does not direct stakeholders to totally disregard the individual site context. Section 6.6: '*Housing*' which lists National Core Principles to meet the housing objectives of the NPF refers to the need to '*Tailor the scale and nature of future housing provision to the size and type of settlement where it is planned to be located*'. The subject proposal has been put forward in this spirit given the locational context and constraints associated with the site and the requirements of the LAP.
- Having regard to neighbouring land use zonings, the nature and scale of the proposal reflects the site's locational context and the existing pattern of development (to the north). The scheme proposed therefore supports National Policy Objective 33: '*Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location*'.
- All of the proposed dwellings are of a standard and design as to be future-proofed in support of NPO 34: '*Support the provision of lifetime adaptable homes than can accommodate the changing needs of a household over time*'.
- The density of development recognises the requirements of the NPF and accords with the parameters of the LAP.

- The scale of the proposed development is appropriate given the site context / location and the requirements of the LAP. It also supports several of the National Policy Objectives of the NPF (e.g. NPOs 3a, 3c, 4, 5, 8, 32, 33 & 34).
- There is no restriction on apartment / duplex development on 'mid-slope' lands in the LAP. Furthermore, whilst it is stated that the densities allowed in the LAP would yield 90% or more houses in terms of dwelling mix, this reference relates to the entirety of the LAP lands and does not infer that every individual parcel of land subject to a planning application must meet this target. The rationale of the LAP is to ensure the holistic development of a large landholding and '*the dwelling mix across the Plan Lands should vary in a manner that responds appropriately to the varying contexts . . . together with the densities prescribed above*'. The subject proposal complies with the densities prescribed.
- The LAP does not state that there must be a 90% yield of housing. Instead, the plan objectives have been designed to result in a yield of c. 90% houses.
- The grounds of appeal erroneously state that 34 No. of the dwellings are apartment / duplex units.
- From a review of the applicant's planning history within the western extent of the LAP lands, it can be ascertained that the applicant has been granted / is seeking permission for a total of 484 No. dwellings, including the 52 No. dwellings as originally sought in the subject application (based on the permission as granted by the Planning Authority this would equate to 476 No. dwellings).
- It is clear from a breakdown of the grants of permission issued thus far to the applicant on its landholding within the western half of the LAP lands that appropriate provision has been made in the various developments as regards dwelling mix.
- Whilst acknowledging the height restrictions imposed by Objective LUD6 of the LAP as regards the development of 'mid-slope' lands, due consideration must be given to the constraints and context of the site with respect to the height of the proposed apartment / duplex building. The submitted design has sought to find an appropriate balance between density, height and open

space, as well as giving consideration to the ESB wayleave through the site. Therefore, it is considered that the proposed three-storey duplex / apartment building has been sensitively incorporated into the lands and does not increase the height of the construction to an inappropriate level which would be detrimental to the existing setting at the foothills of the Dublin Mountains.

- The appellants have given no indication of their qualifications to question the veracity of the submitted Traffic & Transport Assessment or to extrapolate their own data as regards an analysis of traffic and transport considerations.
- The traffic and transport analysis provided with the subject proposal has been prepared in accordance with the best practice guidelines set by Transport Infrastructure Ireland. Furthermore, the transport statement is based on a Traffic & Transport Assessment submitted in support of the Main Link Road i.e. PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367 which was granted on appeal. During pre-planning discussions with the Roads Section of the Local Authority it was agreed that the Traffic & Transport Assessment produced by DPFL in support of the Main Link Road would form the basis of assessing future planning applications as the Main Link Road had been designed to unlock the development potential of the surrounding zoned lands. Such an approach would accord with best practice.
- The trip rates outlined in the DBFL report have the benefit of planning permission and it is therefore prudent to use the same trip rates in the assessment of the subject proposal. When applied to the proposed development (which included for 2 No. concurrent applications on adjacent lands under PA Ref. Nos. SD19A/0137 & SD19A/0139 that are no longer live or on appeal) it was found that after the resultant distribution the development would have a 10% less predicted traffic volume when compared to the permitted Main Link Street. In only assessing the subject application, the distribution reduces to 72% less than those trips previously deemed acceptable and granted permission under ABP Ref. No. PL06S.249367. Given that the predicted traffic level for the subject proposal is less than that previously accepted under ABP Ref. No. PL06S.249367 no further analysis was carried out.

- The traffic statement is based on the committed peak flow development permitted for the Main Link Street. Given the strategic importance of the Main Link Street, its traffic analysis accounted for the development of c. 750 No. dwellings (considerably in excess of that presently under consideration). In this respect, it is reiterated that the traffic counts submitted as part of the Traffic & Transport Assessment prepared in support of ABP Ref. No. PL06S.249367 were accepted on appeal less than two years ago.
- In order to assess the potential impact of the subject proposal on the surrounding road network a comparison was made between the flows permitted under SD17A/0041 / ABP Ref. No. PL06S.249367 and those expected to be generated by the proposed development. This comparison has shown that the subject development will result in 72% less trips when compared to that already permitted.
- The Transport Assessment submitted in support of the Main Link Road distributed traffic towards the Bohernabreena and Oldcourt Roads and included the construction of new signal-controlled junctions. The proposed development, in the short-term, will be accessed via the new Main Link Road / Bohernabreena Road signalised junction and it has been anticipated that trips from the subject proposal and the 2 No. concurrent applications will be 10% less than those already permitted under ABP Ref. No. PL06S.249367 (this reduces to 72% less if only the subject development is considered).
- Even if the subject development is only accessible from Bohernabreena Road, its size is far below that considered when granting permission for the Main Link Street – this ensures there are no concerns in regard to traffic generation.
- The condition of Bohernabreena Road is outside of the control of the applicant and is not directly related to the site. In any event, this matter was previously assessed by the Board in its determination of ABP Ref. No. PL06S.249367 with the reporting inspector noting that the National Transport Authority did not raise any concerns as regards prematurity prior to the provision of additional road infrastructure.

- The appellants' reference to an unrelated development at Hollystown Golf Club is of no relevance to the assessment of the subject application.
- It is not accepted that any grant of permission in advance of the carrying out of additional works along Bohernabreena Road would be contrary to proper planning. Coherent development requires all stakeholders to gradually develop sites and to enhance infrastructural capabilities. The Main Link Street for the LAP lands has already been approved and a pre-commencement compliance package is presently receiving the attention of the Planning Authority. The subject proposal represents the first phase of a residential development along that link road. The applicant has a proven record of safely developing new residential sites within the LAP lands. The subject site will be accessed from Bohernabreena Road and will include additional traffic calming measures i.e. signalised junctions. The proposed development will not result in any health and safety concerns over those previously considered in the approval of the Main Link Street.
- The appellants' comments with regard to the NTA's '*Transport Strategy for the Greater Dublin Area, 2016-2025*' were previously assessed and dismissed in the Board's determination of ABP Ref. No. PL06S.249367. Notwithstanding, the Transport Strategy is a long-term policy document and the proposed development will not hinder any future attempts to achieve the policy objectives contained therein.
- The reference to draft provisions which were not included in the Development Plan as adopted is of no substance and should be dismissed. The adequacy of the Bohernabreena Road was already assessed in the grant of permission for the Main Link Street.
- The assertion that '*no development of the LAP lands should be allowed other than in conjunction with the development of the South Tallaght Link Road*' is unrealistic. The suggestion that 90 No. hectares of lands earmarked for residential development should not be developed until such time as the NTA's '*Transport Strategy for the Greater Dublin Area, 2016-2025*' has reached maturity is ignorant of the vast number of stakeholders, policy documents and

externalities which require a coordinated approach in order to achieve long term development for the benefit of the majority.

- From an environmental / ecological perspective, the application has been accompanied by a variety of relevant documentation, including an ecological survey, Appropriate Assessment Screening Report, arborist's report, and comprehensive landscaping proposals, the result of which is a development which is wholly appropriate for the lands in question and sympathetic to environmental sensitivities.
- With respect to the proposed SUDS measures, the applicant's engineering and landscaping consultants worked closely with the Planning Authority throughout the design process and the proposal is fully compliant with the relevant standards. The open space areas are fully functional as recreational space for future residents.

6.3. Planning Authority Response

- Refers to the inclusion of conditions (as necessary) as regards compliance with Part V of the Planning and Development Act, 2000, as amended, the payment of any development contributions required by the South Dublin County Council Development Contributions Scheme and / or the Kildare Route Project Supplementary Development Contributions Scheme, and the provision of security pursuant to Section 34(4)(g) of the Act.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Overall design and layout
- Traffic considerations
- Infrastructural / servicing issues
- Ecological considerations
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

7.2.1. With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is zoned as '*RES-N*' (New Residential) in the South Dublin County Council Development Plan, 2016-2022 with the stated land use zoning objective '*To provide for new residential communities in accordance with approved area plans*'. Furthermore, within the Core Strategy of the Development Plan, the settlement of Ballycullen is identified as a '*Consolidation Area within the Dublin Gateway*' where undeveloped lands such as the subject site are considered to have the capacity for further residential development (please refer to Map No. 1.3: '*Capacity Sites*') as per Table 1.10: '*South Dublin County Development Plan 2016-2022 Total Capacity*' with no significant road, water supply or drainage infrastructural constraints. In this regard, a key element of the county settlement strategy is to promote the consolidation and sustainable intensification of the existing urban / suburban built form thereby maximising efficiencies from established physical and social infrastructure and, therefore, in seeking to ensure a co-ordinated and plan-led approach to the development of this key growth node at the edge of the '*Consolidation Area within the Gateway*', I would refer the Board to the Ballycullen – Oldcourt Local Area Plan, 2014 (as extended).

7.2.2. Within the Local Area Plan, the subject site is described as comprising '*mid-slope*' lands which have been purposively earmarked for '*low density*' development in order

to reduce the impact on the landscape. Whilst the development of part of the site is considered to be '*highly constrained*' due to the presence of high voltage 220kV overhead transmission lines, it is proposed to locate the housing on those '*partially constrained*' lands to the north of the corridor reserved for the overhead lines. These '*partially constrained*' areas relate largely to the more elevated upper slopes along the southern fringe of the Dublin Mountains where there is a relatively steep topography and the lands become visually prominent.

- 7.2.3. Further credence is lent to the proposal by reference to the planning history and ongoing residential development of the surrounding area, with particular reference to the expansion / construction of the 'Dodderbrook' housing scheme to the east and as the 'Main Link Street' approved under ABP Ref. No. PL06S.249367 (from which the subject site will be accessed) is clearly intended to open up the wider LAP lands for development purposes.
- 7.2.4. Therefore, having considered the available information, including the site context, planning history, and the land use zoning, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues.
- 7.2.5. However, notwithstanding the applicable land use zoning, it is clear that the orderly development of the Ballycullen / Oldcourt lands was always intended to be undertaken within the regulatory framework of a local area plan and that this remains the case. Such an approach would ensure that any development of the lands would be carried out in tandem with the provision of the necessary physical and social infrastructure. Indeed, Section 1.8.0: '*Phasing, Prioritisation and Infrastructure Delivery*' of the County Development Plan states that the future development of this area will be dependent on the delivery of a surface water drainage scheme (due during the lifetime of the plan) whilst social and physical infrastructure and services will also need to be provided in tandem with the delivery of housing. Section 2.1.1 of the Plan also states that Ballycullen / Oldcourt will develop based on the capacity of the public transport network and social infrastructure. Accordingly, I would refer the Board to the '*Phasing Strategy*' set out in Section 6.3 of the Ballycullen – Oldcourt Local Area Plan, 2014 and the analysis of the subject proposal in the context of same as undertaken by the Planning Authority.

7.2.6. For the purposes of the phasing strategy, the LAP lands have been divided to the east and west using the Ballycullen Road as the point of division with the strategy for each of these areas comprising a total of 4 No. phases. Each phase specifies a quantum of residential development and prescribed key pieces of physical and social infrastructure, including community facilities, that must be provided prior to the next phase of development in order to ensure that key pieces of infrastructure are delivered in a sequential manner as development progresses. It is envisaged that the commencement of development within the Plan lands will be managed through the careful consideration of planning applications thereby only allowing for the quantum of development permissible under each phase to commence construction after key outcomes have generally been achieved. Table 6.3.2 of the Plan details the phasing strategy for the western extent of the LAP lands.

(For the purposes of clarity, I would advise the Board that two development options are presented in the LAP which differ in terms of the treatment of the existing 220kV overhead lines that traverse the western side of the Plan lands. Option 'A' involves redirecting a c. 500m section of the overhead lines further to the south into the path of an existing wayleave for underground watermains. This is the preferred development option given that it would free up the less elevated and more level areas of the Plan lands for development and allow for a more coherent arrangement of streets and blocks while grouping wayleave requirements for utilities into one channel. Option 'B' represents an arrangement of streets and blocks around the current route of the overhead lines and is the less preferred development option).

7.2.7. From a review of the available information, in my opinion, certain difficulties arise in regularising the proposed development with the phasing strategy set out in the LAP. In this respect, I would draw the Board's attention to the extent of residential development which has already been approved within the western confines of the LAP lands, a significant proportion of which has been built or is presently under construction.

7.2.8. Concerns were initially raised by the case planner in their original assessment of the subject proposal wherein it was noted (at the time of writing) that a total of 412 No. dwelling units had been granted planning permission within the western extent of the LAP lands since the adoption of the Plan and thus the development of the area should be within Phase 4 as set out in Table 6.3.2 of the LAP. In this regard,

reference was made to a lack of progress on specific requirements of the phasing strategy (i.e. 'key outcomes required before [the] next phase') of the LAP as follows:

7.2.9. *Phase 1: (Key Development: Option 'B': 150 dwellings):*

- The commencement of works on Gunny Hill playing pitches, including access (Status: Incomplete)
- The provision of 1 x NEAP on western side of Plan Lands (Status: Incomplete)

7.2.10. *Phase 2: (Key Development: Option 'B': 220 dwellings):*

- Completion of Gunny Hill playing pitches, including access (Status: Incomplete)
- Commencement of landscaping of Oldcourt Park with access and 1 additional NEAP for western side of Plan lands (Status: Incomplete)
- The provision of a minimum of 300m² of community floorspace (Status: Incomplete)

7.2.11. *Phase 3: (Key Development: Option 'B': 350 dwellings):*

- Completion of Oldcourt Park (Status: Incomplete)
- Commencement of 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 (Status: Incomplete)

7.2.12. *Phase 4: (Key Development: Option 'B': 110 dwellings):*

- Commencement of construction of the designated Primary School on the eastern side of the Plan lands and the Primary School and/or Post-Primary School on the western side of the Plan lands (Status: Incomplete)

(For the purposes of clarity, the Board is advised that the layouts of the developments permitted & proposed to date within the western extent of the LAP lands have sought to evoke Option 'B' by retaining the existing 220kV lines *in situ*).

7.2.13. It was also noted that two concurrent planning applications had been lodged elsewhere on the applicant's landholding for the development of a further 119 No.

dwelling units (i.e. PA Ref. Nos. SD19A/0137 & SD19A/0139) and that these placed an additional onus on the need to satisfy the phasing requirements of the LAP.

(Although PA Ref. Nos. SD19A/0137 & SD19A/0139 were ultimately refused permission, an additional 21 No. dwellings were recently approved on appeal within the western extent of the LAP lands under PA Ref. No. SD19A/0104 / ABP Ref. No. ABP-305800-19).

7.2.14. In response to a request for further information wherein the Planning Authority detailed its concerns as regards compliance with the phasing provisions of the LAP, the applicant submitted that a total of 413 No. units had been approved within the western half of the LAP lands pursuant to PA Ref. Nos. SD14A/0180, SD17A/0121 (ABP Ref. No. PL06S.249294), SD17A/0468 & SD15A/0150 (as amended by SD18A/0025) whilst permission had also been sought for a further 182 No. units. The case was then put forward that regardless of any pending applications, the overall level of development permitted and proposed with the western half of the LAP lands would fall within Phase 3 of the LAP phasing strategy i.e. in excess of 370 No. dwellings (the cumulative total of Phases 1 & 2) but less than the 720 No. dwellings needed to trigger Phase 4. Moreover, it was noted that Section 6.3.2 of the LAP expressly states that a residential unit, for the purposes of the phasing assessment, *'will be defined as completed when a Certificate of Compliance on Completion (CCC), where required, has been submitted via the Building Control and Management System (BCMS), validated, and particulars entered on the Register'* i.e. the assessment of phasing is to be based upon residential units completed as opposed to those granted or proposed (as was subsequently confirmed by the Forward Planning Section of the Planning Authority). Therefore, by applying such a definition, and on the basis that c. 230 No. Certificates of Compliance on Completion had been validated, it was submitted that the development of the western half of the LAP lands would only be within Phase 2 i.e. over 150 No. dwellings but less than the 370 No. dwellings required to trigger Phase 3. Furthermore, the applicant has sought to emphasise that the 'Phasing Strategy' of the LAP allows for the provision of community facilities and amenities either prior to or 'in tandem' with residential development.

7.2.15. Notwithstanding the assertion that the development of the western extent of the LAP lands was only within 'Phase 2' given the number of units completed (although this

figure is likely to have increased in the interim), in its response to the request for further information (received by the Planning Authority on 9th September, 2019) the applicant sought to respond to the requirements of Phases 1, 2 & 3 as follows:

7.2.16. Phase 1:

- *Commencement of works on Gunny Hill playing pitches, including access:*

These works were approved under PA Ref. No. SD16A/0059 / ABP Ref. No. PL06S.247693 and a pre-commencement compliance package has been submitted for the approval of the Planning Authority (with only a partial response to same having been received by the applicant). The playing pitches are prepared for commencement and a pitch design specialist has been appointed to carry out the works to deliver the pitch.

- *1 x NEAP on western side of Plan lands:*

The subject site is not designated as a neighbourhood park and the Parks Department has advised the applicant that the provision of NEAPs is no longer desirable with the preference instead being for natural play areas incorporated throughout the plan lands. These details are being delivered in tandem with residential development by way of approved landscaping plans and conditions attached to the respective grants of permission. The applicant's landscaping consultant has also agreed these details with the Parks Department as illustrated on the landscape masterplan submitted with the application.

- *Site made available for the construction of a Primary School on the eastern side of the Plan lands or a Primary School and/or Post-Primary School on the western side of the Plan lands:*

The LAP has designated two sites for schools (with the Oldcourt / Gunny Hill site having been increased in size by way of a material alteration of the Plan to allow for a third school site). The Phasing Strategy provides the option of constructing the first primary school on either of the two sites initially identified i.e. on the eastern or western extent of the Plan area. The lands designed for the new schools are not within the ownership of the applicant and are outside of its control, however, they are reserved for such purposes until such time as the Department of Education & Skills either provides a school or confirm that

there is no longer a need for a school(s). Moreover, any grant of permission for the subject proposal will not inhibit the delivery of future schools.

- *Demonstrate compliance with the provision of road improvements and traffic requirements as per the Local Area Plan Accessibility and Movement Strategy and all other relevant traffic related plans, guidelines and studies:*

Conditions have been attached to those grants of permission within the Plan area which require the Planning Authority to be notified of construction phasing programmes. In this regard, the Main Link Street for the area was approved under PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367 and meets the roads requirements of the LAP.

7.2.17. Phase 2:

- *Completion of Gunny Hill playing pitches, including access:*

Please refer to the applicant's submission as regards Phase 1.

- *Site made available for the construction of a Primary School on the eastern side of the Plan lands or a Primary School and/or Post-Primary School on the western side of the Plan lands:*

Please refer to the applicant's submission as regards Phase 1.

- *Commencement of landscaping of Oldcourt Park with access and 1 additional NEAP for western side of Plan lands:*

The subject site is outside of the lands designated for Oldcourt Park. Furthermore, although the parameters of Oldcourt Park are not defined in the LAP, it will ultimately be formed via the combined Green Infrastructure Network of each application to be developed across the western half of the plan lands i.e. the park is being delivered in tandem with development via their landscape plans and conditions attached to the respective grants of permission. The Landscape Masterplan submitted with the subject application sets out the overall landscaping strategy for the applicant's lands.

- *The provision of a minimum of 300 sq.m. of community floorspace:*

Site Specific Objective SSP20 of the LAP (Appendix 1: Plan Objectives) states that '*The Discount Foodstore Site shall provide the primary location for*

community floorspace that will serve housing on the western side of the Plan lands in accordance with the requirements of Section 5.4 of this Local Area Plan and this is reiterated in Objective LUD9 with Section 6.3.2. of the Plan also confirming that *'Floorspace on the western side shall be co-located with the permitted discount foodstore'*. This location is outside the control of the applicant. Moreover, the requirement for 300m² of community floorspace is not considered to be expedient for the purposes of the proposed development and it is unreasonable to require the applicant to provide same given that it is not within their control to deliver. In addition, any grant of permission for the subject proposal will not inhibit the future delivery of community floorspace adjacent to the existing Lidl discount foodstore.

- *Demonstrate compliance with the provision of road improvements and traffic requirements as per the Local Area Plan Accessibility and Movement Strategy and all other relevant traffic related plans, guidelines and studies:*

Conditions have been attached to those grants of permission within the Plan area which require the Planning Authority to be notified of construction phasing programmes. In this regard, the Main Link Street for the area was approved under PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367 and meets the roads requirements of the LAP.

7.2.18. Phase 3:

- *Completion of Oldcourt Park:*

It is reiterated that the parameters of Oldcourt Park are not defined in the LAP and it will ultimately be formed via the combined Green Infrastructure Network of each application to be developed across the western half of the plan lands i.e. the park is being delivered in tandem with development via their landscape plans and conditions attached to the respective grants of permission. The Landscape Masterplan submitted with the subject application sets out the overall landscaping strategy for the applicant's lands.

- *Commencement of 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:*

Please refer to the applicant's submission as regards Phase 1.

- *Demonstrate compliance with the provision of road improvements and traffic requirements as per the Local Area Plan Accessibility and Movement Strategy and all other relevant traffic related plans, guidelines and studies:*

Please refer to the applicant's submission as regards Phase 2.

7.2.19. On the basis of the foregoing, the applicant has asserted that all of the relevant phasing requirements of the LAP have been delivered, and are being delivered, in tandem with residential development within the western half of the Plan area. It has also been submitted that the subject proposal will not inhibit the delivery of any of the key outcomes set out in the phasing strategy, with some of the requirements not being expedient for the purposes of the development proposed, and that it is unreasonable to expect the applicant to deliver those items over which it has no control. However, should it be necessary, it has been suggested that any perceived outstanding requirements could be addressed by way of condition prior to occupation of the proposed dwellings.

7.2.20. The report of the case planner dated 3rd October, 2019 provides an analysis of the applicant's response to the request for further information and the pertinent points can be summarised as follows:

- *The Gunny Hill playing pitches:* Whilst the Planning Authority has confirmed compliance with Condition No. 6 of PA Ref. No. SD16A/0059 / ABP Ref. No. PL06S.247693, the Public Realm Department has advised that the applicant's submission does not constitute compliance with Condition Nos. 1, 2, 3 & 7.
- *1 x NEAP on western side of Plan lands:* The Public Realm Department has confirmed that the provision of NEAPs is no longer desirable with the preference being for the incorporation of natural play areas throughout the plan lands.
- *The provision of a primary school:* The Forward Planning Section has confirmed that the delivery of schools in the Ballycullen-Oldcourt area is progressing despite previously having been delayed.
- *Road improvements:* Both the subject proposal and two concurrent applications rely on the Main Link Street as permitted. The grant of permission issued for the Main Link Street under ABP Ref. No. PL06S.249367 required a

number of changes to be agreed, however, no compliance submission has been received by the Planning Authority.

- *Oldcourt Park*: The western extent of the plan lands is shown to be connected to a network of green spaces which in turn connect to a central spine. The recommendations of the Public Realm Department in relation to NEAPs are noted.
- *The provision of a minimum of 300m² of community floorspace*: It is acknowledged that the lands specified for the provision of community floorspace and identified as a potential local centre in the LAP are outside of the applicant's control.

7.2.21. The planning report subsequently states that whilst there are shortcomings in the community and other infrastructure related to the site which are not within the power of the applicant to provide, it would be appropriate that conditions relating to the commencement and occupation of residential units should bear a relation to the phasing contained in the Local Area Plan. This assessment subsequently culminated in the attachment of Condition No. 3 to the notification of the decision to grant permission which prohibited any occupation of the development in advance of the completion of the Gunny Hill playing pitches (including the access arrangement) and the submission of a valid planning application for a minimum of 300m² of community floorspace within the western extent of the LAP lands. Notably, it appears that matters pertaining to compliance with several of the conditions attached to ABP Ref. No. PL06S.249367 (i.e. the approval of the Main Link Street for which the proposed development will be accessed) remained outstanding when the decision was made to grant permission for the subject application.

7.2.22. Having considered the available information, whilst I would acknowledge the applicant's submissions with regard to the phasing arrangements of the LAP, I am inclined to suggest that in assessing the merits of the subject proposal and the decision of the Planning Authority, including the imposition of Condition No. 3 in the notification of the decision to grant permission, it is appropriate to review the approach previously employed in the phasing of development by reference to those earlier decisions which approved substantial residential development elsewhere within the western extent of the LAP lands i.e. PA Ref. Nos. SD14A/0180,

SD15A/0150, SD17A/0121 (ABP Ref. No. PL06S.249294), SD17A/0468 & SD19A/0104 (ABP Ref. No. ABP-305800-19).

- 7.2.23. The grant of permission issued for PA Ref. No. SD14A/0180 (permitting 137 No. dwelling units) included a condition prohibiting the commencement of development until a legally binding undertaking had been lodged with the Planning Authority to secure the delivery of the playing pitches on lands between Gunny Hill and Oldcourt Lane as designated in the LAP. Permission was then granted for a further 74 No. units under PA Ref. No. SD15A/0150, subject to a condition which referenced PA Ref. No. SD14A/0180 and specified that no more than 150 No. dwellings were to be occupied on the western half of the LAP lands until development had commenced on the Gunny Hill playing pitches (including access), the 1 No. Neighbourhood Equipped Area for Play on the western side of plan Lands, and a primary school on either of the designated school sites on the eastern & western sides of the plan lands (*N.B.* The requirement for a primary school to be completed and operational within Phase 1 was replaced with the provision that a site be made available for the construction of a school by way of an amendment of the LAP in 2017).
- 7.2.24. In its determination of ABP Ref. No. PL06S.249294 (PA Ref. No. SD17A/0121), which approved the construction of a further 133 No. units, the Board imposed a condition which required a detailed phasing programme to be agreed in writing that fully accorded with the requirements of the planning authority. Moreover, this phasing programme was to demonstrate full compliance with Development Plan policies and objectives and the provisions of the Ballycullen / Oldcourt Local Area Plan, 2014 (as amended 2017). The Planning Authority then approved an additional 64 No. units under PA Ref. No. SD17A/0468 which included a comparable condition that prohibited any development until a detailed phasing programme had been lodged with the Planning Authority that accorded in full with its requirements and complied with the policies and objectives of the Development Plan and the provisions of the LAP.
- 7.2.25. Most recently, the Board granted permission for another 21 No. units under ABP Ref. No. ABP-305800-19 (PA Ref. No. SD19A/0104), however, in that instance it did not impose any specific condition as regards the phasing of development, although the approved plans and particulars included a submission on phasing which corresponds

with the applicant's response to the request for further information issued with respect to the subject application.

7.2.26. It is apparent from the foregoing that a substantial reliance has been placed on the use of planning conditions to ensure that residential development is constructed in accordance with the phasing strategy set out in the LAP. In this regard, a total of 443 No. units (as detailed in the report of the case planner) have seemingly already been approved on the western half of the LAP lands pursuant to 5 No. separate planning applications on different sites. In the event of a grant of permission for the subject proposal, this figure would increase to 487 No. units whilst it is apparent from PA Ref. Nos. SD19A/0137 & SD19A/0139 (both of which were refused permission) that the applicant has previously submitted proposals for the construction of a further 119 No. units on adjacent lands thereby potentially resulting in a cumulative total of 606 No. dwelling units (subject to planning permission). Whilst the applicant is correct that the total number of completed (as opposed to permitted) units is to be used for the purposes of defining compliance with the phasing strategy (a provision introduced by the amendment of the LAP in 2017), in my opinion, this gives rise to difficulties given the number of individual developments approved on the LAP lands. The management / limitation of approved housing developments through the enforcement of agreed phasing plans for individual schemes can prove to be problematic and could potentially give rise to the stalling of works thereby resulting in unfinished developments. For example, the level of housing already permitted within the western extent of the Plan lands is such as to equate to Phase 3 of the LAP Phasing Strategy, however, any implementation of these approvals would necessitate limiting the total number of house completions to no more than 370 No. units until such time as a minimum of 300m² of community floorspace had been provided so as to accord with the requirements of Phase 2. In this respect, difficulties arise by the acknowledgement that the necessary community floorspace is required to be co-located with the permitted discount foodstore as part of the designated 'Local Centre' on lands which are not within the applicant's control. Furthermore, any such limitation of the number of house completions would likely fail to accord with the intent of the phasing strategy as set out in Section 6.3 of the LAP wherein it is stated that in order to avoid a shortage of community facilities and amenities for residential communities, these facilities are to be provided *'either prior to or in tandem with*

residential development rather than at the latter stages of residential development or after such development has taken place’.

7.2.27. Whilst I would acknowledge that progress has been made towards the completion of the Gunny Hill playing pitches (as per Phases 1 & 2) with a further application having recently been lodged for new floodlighting, in my opinion, concerns remain as regards the landscaping of Oldcourt Park and the provision of a NEAP for the western side of the Plan lands (notwithstanding the differing approach now advocated by the Parks Department). Moreover, I would have reservations as to the appropriateness of approving further residential development within the western extent of the LAP lands in the knowledge that 443 No. units (as detailed in the report of the case planner) have already been approved thereon (with the subject proposal increasing this figure to 487 No. units) and that the applicant, by its own admission, is not in a position to deliver the 300m² of community floorspace required to be completed as part of Phase 2 of the phasing strategy (when 370 No. units are expected to be completed). It should also be noted that whilst the applicant indicated that 230 No. units had been completed as part of its developments, this figure (as referenced in the further information response dated 2nd September, 2019) is likely to be outdated thereby placing a greater emphasis on the need for the required community infrastructure etc. to be provided in tandem with development.

7.2.28. Therefore, on the basis of the foregoing, I am not satisfied that it would be prudent or in the interest of the proper planning and sustainable development of the LAP lands to permit the additional housing proposed in light of the applicant’s current inability to fulfil the requirements of the Phasing Strategy.

7.3. Overall Design and Layout:

7.3.1. Proposed Housing Density:

By way of context, I would advise the Board that the proposed development site is located on the southern fringe of the Dublin Metropolitan Area on peripheral greenfield lands that have been earmarked for new residential development in the South Dublin County Development Plan, 2016-2022 and the Ballycullen - Oldcourt Local Area Plan, 2014. The density strategy set out in the LAP responds 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, visual prominence and natural heritage features such as hedgerows and streams. It also reflects the constraints created by the major utility lines that traverse the area and the need to counterbalance some of the higher density residential development that has taken place on the eastern side of the Plan lands. In this regard, the density strategy directs land uses and densities within three distinct landscape areas (lower slope lands, mid slope lands and upper slope lands) where densities will vary according to context. Recommended densities vary from very low to medium density depending on elevation and location and are categorised according to the three identified landscape areas as follows:

Landscape Area	Net Average Density per Hectare
Lower Slope Lands	32 – 38 dwellings
Mid-Slope Lands	22 – 28 dwellings
Upper Slope Lands	12 – 18 dwellings

- 7.3.2. The prescribed net residential densities exclude Main and Local Link Roads, primary school sites, green buffers, local shopping facilities and large neighbourhood parks.
- 7.3.3. It is envisaged that approximately 1,600 No. additional dwellings will be constructed if all the undeveloped lands within the Plan area, including those lands subject to extant permissions, are developed in accordance with the LAP’s standards and objectives, however, it should be noted that two development options are presented which differ in terms of the treatment of existing 220kV overhead lines that traverse the western side of the Plan lands. Option ‘A’ (i.e. 1,600 No. additional units) is the preferred approach and involves redirecting an approximate 500m section of the overhead lines further south thereby freeing up less elevated ‘Lower’ and ‘Mid’ slope lands and allowing for more compact and coherent development. Option ‘B’ is the less preferred development option and comprises an arrangement of streets and blocks around the current route of the overhead lines which will yield approximately 1,450 No. additional units.
- 7.3.4. The subject proposal adheres to Development Option ‘B’ with the proposed housing to be located on ‘Mid-Slope Lands’ designated for low density development (i.e. 22-28 No. dwellings per hectare). In this regard, it has been submitted that whilst the

subject site has a stated gross area of 2.66 hectares, the density of the development proposed is based on a net developable area of 1.89 hectares which has been calculated by omitting that portion of the site area occupied by the permitted Main Link Street. By extension, the net density of the proposed development as initially submitted to the Planning Authority, which comprised 52 No. residential units, equated to 27.5 No. units / hectare whereas the density of the amended proposal submitted by way of further information can be calculated as 23.2 No. units / hectare. Accordingly, the proposed development satisfies the density requirements of the Local Area Plan.

- 7.3.5. Having regard to the foregoing, I would draw the Board's attention to H8 Objective 5 of the County Development Plan which states that developments on lands for which a Local Area Plan has been prepared will be required to comply with the local density requirements of that Plan. Moreover, H8 Objective 6 of the Development Plan states that whilst the provisions of the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' relating to 'Outer Suburban' locations, including a density range of 35-50 units per hectare, will be applied to greenfield sites that are zoned residential, this will not be the case in respect of any such lands that are subject to a Local Area Plan. In effect, the position of the Planning Authority is that the density range of 22-28 No. dwellings / hectare as set out in the Ballycullen / Oldcourt Local Area Plan, 2014 takes primacy.
- 7.3.6. The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. Given the site location and its zoning as 'RES-N' (New Residential) in the County Development Plan, in my opinion, it is clear that the subject lands can be categorised as outer suburban / 'greenfield' as defined by the Guidelines where the greatest efficiency in land usage is to be achieved by providing net residential densities in the general range of 35-50 No. dwellings per hectare and that such densities (involving a variety of housing types where possible) are to be encouraged generally. Moreover, within such areas development at net densities of less than 30 No. dwellings per hectare is generally to be discouraged in the interest of land efficiency.

- 7.3.7. At this point, I would advise the Board of Specific Planning Policy Requirement 4 of the '*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*' which expressly states that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure '*the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007)" or any amending or replacement Guidelines*'.
- 7.3.8. In considering the appropriateness of the low density of development proposed in the subject application, I am cognisant that the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' recognise that where non-residential uses, such as main roads, retail, employment and major open spaces, are planned in conjunction with housing, an allowance needs to be made in the density assumption for those lands that will be occupied by such uses which may be upwards of 25% at the neighbourhood or district scale. They advise that the density standard must be related to the area accommodating the development and that overall densities can be refined down to the residential component of an individual site, with the consequence that the residential density assumption in terms of the number of dwellings per hectare will rise as the focus narrows to that of the individual site and the area becomes smaller. It subsequently recommends that gross densities be applied to overall land areas for mixed-use developments in Local Area Plans and that net densities be applied in allocating housing land within LAPs.
- 7.3.9. Whilst I would acknowledge that Section 5.12 of the Guidelines allows for limited provision to be made for lower density schemes provided that, within a neighbourhood or district as a whole, average densities achieve the recommended minimum standards, I would have a number of concerns as regards the low density of development presently under consideration. In the first instance, I am not satisfied that the low density of the subject proposal will be compensated to any significant extent in the context of the wider Local Plan Area given that the existing, permitted and proposed developments within the western extent of the Plan area accord with Development Option 'B' thereby yielding a lesser number of dwelling units overall. Secondly, the remainder of the residentially zoned lands in the area have also been

earmarked for 'mid' to 'low' density development in the LAP. Thirdly, the LAP states that the higher densities of those extant grants of permission within the eastern extent of the LAP lands would no longer be in keeping with the objectives of the plan and expresses a desire to reduce the density of those developments.

- 7.3.10. It is also questionable whether it is appropriate to rely on the lower density provisions of the LAP given that there are wider difficulties in reconciling the density proposed with recent changes in national and regional policy, namely, the publication of *'Project Ireland 2040: National Planning Framework'*, the Implementation Roadmap for the National Planning Framework, the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region, and Specific Planning Policy Requirement 4 of the *'Urban Development and Building Heights, Guidelines for Planning Authorities, 2018'* which obliges planning authorities and the Board to secure the minimum densities set out in the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* in the future development of greenfield or edge of city/town locations. Current policy emphasises the need to secure the compact and sustainable growth of urban centres which would seem to undermine the merits of the comparatively low density of development proposed.
- 7.3.11. In my opinion, the density of the proposed development is unacceptably low and cannot be considered to represent an efficient or economic use of land or services. The proposal would, therefore, be contrary to local planning policy and national guidance as well as the proper planning and sustainable development of the area.

7.3.12. *Proposed Design, Layout & Housing Mix:*

The proposed development, as amended in response to the requests for further information and subsequent clarification, involves the construction of 44 No. residential units made up of 14 No. four-bedroom, 20 No. three-bedroom, 5 No. two-bedroom, and 5 No. one-bedroom dwellings and comprises a combination of semi-detached housing and duplex / apartment units. The overall design of the scheme is typical of a suburban format of development with each dwelling house having been provided with front and rear garden areas and dedicated off-street car parking (with the exception of the duplex units which will be served by communal parking). The site layout has been informed by a number of constraints, including the narrow and elongated dimensions of the site itself and its irregular shape, the position of the

Main Link Street approved under PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367, the wayleave / corridor required for the overhead transmission lines, and the desire to preserve the existing landscaping / hedgerow features. Broadly speaking, the submitted proposal is generally comparable to existing / permitted development elsewhere within the western extent of the LAP lands.

7.3.13. In terms of the housing designs / types / sizes and the variety of building typologies, I am satisfied that the breakdown of housing types proposed provides for a reasonable mix of housing units. Furthermore, I would concur with the applicant's interpretation of Objective LUD3 of the LAP that the reference to a permissible dwelling mix yielding a minimum of 90% or more houses (as distinct from apartments) is to be applied to the Plan lands as a whole as opposed to individual development and that it would be unreasonable to impose such a provision to the subject proposal.

7.3.14. With respect to building heights, whilst I am cognisant that the LAP has categorised the plan lands according to their topographical characteristics and that Objectives LUD6 & BF8 state that residential development on 'Mid Slope' lands (such as the subject site) should comprise low density, semi-detached and terraced housing of no more than 2 storeys (although additional split-level floors may be acceptable where they are justified on the basis of topography, are sensitively incorporated into the slope of the lands, and do not increase the height of dwellings from street level to more than 2 storeys), and although House Type B1 is of a two-and-a-half / three storey construction whilst later phases of development may serve to break up the predominantly two-storey construction proposed, given my comments as regards the relatively low density of development proposed, including the considerable expanse of lands available for development, I would suggest that the opportunity for the inclusion of a greater variety of building heights should perhaps be given more consideration. In this regard, I note that the '*Urban Development and Building Height, Guidelines for Planning Authorities, 2018*' advocate a move away from unsustainable "business as usual" development patterns towards a more compact and sustainable model of urban development and refer to the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, including suburban areas. Indeed, Specific Planning Policy Requirement 4 refers to

the need to ensure a greater mix of building heights and typologies in planning for the future development of suburban locations and the avoidance of mono-type building typologies.

7.4. Traffic Considerations:

- 7.4.1. Access to the proposed development will be obtained via the Main Link Street previously approved under ABP Ref. No. PL06S.249367 (PA Ref. No. SD17A/0041), the construction of which is to be undertaken in tandem with both the subject proposal and future residential development. That part of the link road required to facilitate the proposed development (as shown on the submitted drawings) will include the construction of a new signalised junction with Bohernabreena Road and the provision of dedicated left and right-hand turning lanes onto same. In this regard, it will be necessary to ensure that any approval (and subsequent construction) of the subject development will be contingent on the completion of the relevant section of the Main Link Street in accordance with the terms and conditions of the grant of permission issued for ABP Ref. No. PL06S.249367 e.g. Condition No. 4 requires the detailed design and construction of the signalised junction with the Bohernabreena Road to be agreed in writing with the Planning Authority. Accordingly, in the event of a grant of permission for the subject proposal, I would recommend that a condition be imposed requiring the completion of the appropriate section of the new Main Link Street in accordance with the relevant terms and conditions of its approval (unless otherwise superseded) prior to the occupation of the proposed dwelling units.
- 7.4.2. The principle concern raised in the grounds of appeal is whether the surrounding road network has sufficient capacity to accommodate the increased volumes of traffic consequent on the proposed development in the absence of road improvement works, with particular reference to the construction of the new Main Link Street through the Ballycullen-Oldcourt LAP lands and the South Tallaght Link Road over the River Dodder from Bohernabreena Road to Kiltipper Road (as referenced in the National Transport Authority's '*Transport Strategy for the Greater Dublin Area, 2016-2025*'). In this regard, it has also been submitted that in light of existing traffic congestion and delays in the area, such as those experienced during peak hours at the 'Old Mill Public House' junction of Bohernabreena Road (R114) / Killininy Road (R113) / Firhouse Road / Old Bawn Road, the proposed development is premature pending the completion of both the new Main Link Street and the South

Tallaght Link Road. In further support of the appellants' assertions, the case has been put forward that the traffic impact analysis and the predictions detailed in the Traffic and Transport Assessment provided with the subject application are based on out-dated and unreliable data with the result that the likely traffic impact of the development has been underestimated.

7.4.3. In my assessment of the subject appeal, I would suggest at the outset that several of the issues raised as regards the potential traffic impact of the proposed development have already been given careful consideration in the Board's previous determination and subsequent approval of ABP Ref. No. PL06S.249367 i.e. the 'Main Link Street' between Bohernabreena Road and Oldcourt Road. Accordingly, it would be reasonable to have due regard to that analysis. However, in the interest of completeness, I propose to review the merits of the appeal from first principles.

7.4.4. A key assertion in the grounds of appeal is the contention that the conclusions of the Traffic and Transport Assessment provided with the subject application are flawed on the basis that they are derived from an analysis of out-dated traffic counts which do not take account of all permitted development in the area. In support of this position, it has been submitted that the subject TTA has been informed by the 'Traffic and Transport Assessment Report' dated February, 2017 that was provided as part ABP Ref. No. PL06S.249367 which included a reliance on the application of an indexation factor to traffic counts undertaken as part of earlier planning applications for residential developments lodged in 2014 & 2015 as a means of assessing the traffic impact of the Main Link Street. In rejecting the reliability of the subject TTA, the appellants have asserted that in its assessment of PA Ref. No. SD17A/0121 (an application for the development of 133 No. dwellings ('Dodderbrook: Phase 2') on lands to the east of the subject site), the Planning Authority was of the opinion that updated traffic counts were necessary due to the need to take account of all the permitted developments in the area and that the extrapolation of the 2014 & 2015 figures was inappropriate for assessment purposes. A revised TTA was therefore provided in support of PA Ref. No. SD17A/0121 which recorded significantly greater traffic flows when compared to the 2014 / 2015 figures. On this basis, the appellants are of the view that it has already been accepted by the Planning Authority that the 2014 / 2015 traffic counts used in support of the subject TTA are outdated and thus the traffic impact analysis contained therein is flawed.

- 7.4.5. In response to the foregoing, the applicant has submitted that the TTA provided with the subject application accords with best practice and that it was agreed during the course of pre-planning discussions with the Local Authority that the Traffic & Transport Assessment submitted in support of the Main Link Road (i.e. PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367), as had previously been accepted on appeal, would form the basis for the assessment of future applications as the Main Link Road had been designed to accommodate the development potential of the surrounding LAP lands. It is further stated that the traffic flows expected to be generated by the proposed development will be considerably less than the trip rates already permitted under PA Ref. No. SD17A/0041 / ABP Ref. No. PL06S.249367 and thus no concerns as regards traffic generation arise.
- 7.4.6. Having considered the foregoing, in my opinion, it is clear that the link road from which the proposed development will be accessed has already been approved on the basis of the likely traffic generation attributable to the wider development of the LAP lands and in this regard I would refer the Board to its determination of ABP Ref. No. PL06S.249367 and the assessment by the reporting inspector wherein it was stated that *'the assumptions as outlined in the TTA follow a logic based assumption of traffic patterns and there is nothing to suggest that the information base for the modelling is not therefore robust'*. Considering that the Main Link Street was granted permission following approval of the housing scheme permitted under PA Ref. No. SD17A/0121 / ABP Ref. No. PL06S.249294, it would appear that the Board was satisfied as regards the veracity of the traffic impact analysis conducted as part of ABP Ref. No. PL06S.249367. Accordingly, I would suggest that the fundamental point of contention raised by the appellants as regards the traffic impact arising from the development of up to 52 No. dwelling units on the subject site has already been considered. Indeed, the likely traffic generation arising from the development of the western extent of the LAP lands to be served by the Main Link Street has been assessed not just under ABP Ref. No. PL06S.249367 but is also likely to have informed the LAP itself. Therefore, I am amenable to the TTA as submitted with the subject application. Moreover, having established that it is acceptable to rely on the TTA which informed the approval of the link road intended to open up the wider LAP lands for development purposes, in my opinion, it is reasonable to conclude that the

surrounding road network has sufficient capacity to accommodate the increased traffic volumes consequent on the proposed development.

- 7.4.7. At this point, it is necessary to consider the fact that the proposed development will only be accessible from the Bohernabreena Road pending completion of the Main Link Street through to Oldcourt Road with the result that all traffic movements consequent on the proposal will be via Bohernabreena Road. In this respect, concerns have been raised as regards the adequacy of the existing roadway to accommodate the increased traffic volumes / movements, the absence of any cycle-lanes, and need to upgrade footpaths etc., while it has also been suggested that the development will be premature until such time as the Main Link Street has been completed in its entirety. In response, the applicant has asserted that even if the development is only accessible from Bohernabreena Road, its size is far below that considered when granting permission for the Main Link Street and thus no concerns arise as regards traffic generation.
- 7.4.8. Given the limited scale of the development proposed when taken in context, the anticipated volume and distribution of traffic to be accommodated by the Main Link Street on the development of the wider landbank, and the Board's previous assessment of ABP Ref. No. PL06S.249367 wherein it was accepted that Bohernabreena Road could cater for the traffic generation attributable to the development of the LAP lands, in my opinion, the traffic impact of the subject proposal on Bohernabreena Road and beyond will be noticeably less than that which has already been deemed permissible. Therefore, I am satisfied that the existing road network has sufficient capacity at present to accommodate the development as proposed.
- 7.4.9. With regard to the suggestion that the proposed development is nevertheless premature pending the completion of the new link road, whilst Table 6.5 of the County Development Plan outlines a Six Year Road Programme (subject to available funding) which includes for the provision of various streets within the Ballycullen-Oldcourt LAP lands in order to form a strategic street network providing access throughout the site, and although the construction of the new 'Main Link Street' between Oldcourt Road and Bohernabreena Road is central to the future pattern of development of the LAP lands, it is my understanding that there is no express requirement for the entirety of the link road to be constructed in advance of any

development within the western extent of the LAP lands to be served by same. Instead, it is envisaged that the new link road will be developed on a phased basis in tandem with residential development. In my opinion, such an approach is reasonable given that the surrounding road network (incl. Bohernabreena Road) can presently cater for the subject proposal.

- 7.4.10. It has also been suggested that the proposed development is premature given the objective within the National Transport Authority's '*Transport Strategy for the Greater Dublin Area, 2016-2025*' to build a South Tallaght Link Road over the River Dodder from Bohernabreena Road to Kiltipper Road which will effectively serve as a linear extension of the 'Main Link Street' thereby enabling traffic to enter and egress the LAP lands without adding traffic to the current road network. In this regard, and by way of background, I would advise the Board that the subject site (and the wider LAP lands) is located within '*Corridor E – N81 Settlements - South Tallaght – Rathfarnham – to Dublin City Centre*' as identified within the aforementioned strategy where it is acknowledged that further development on Tallaght's southern fringe, including the Ballycullen and Oldcourt area, is constrained by the limited road network capacity. Section 4.2.5 of the Strategy indicates that two new roads are to be built within this corridor, a South Tallaght link road from Oldcourt Road to Kiltipper Road, and a public transport bridge over the Dodder to the east of Tallaght from Firhouse Road to the N81 to address localised access and congestion issues. Other road schemes and upgrades will also be implemented with Chapter 5 referring to the 2035 Transport Network and Section 5.8 referring to the road network and stating the following:

'the Greater Dublin Area has a large network of national, regional and local roads, which includes not only the roads themselves but also bridges and a tunnel, footpaths, signposting and markings, traffic signals and sophisticated traffic management systems. The first priority for road investment will be the expenditure required to maintain, renew, manage and operate that extensive infrastructure. It is also proposed to undertake a limited number of new projects, details of which are set out in the following sections.'

- 7.4.11. Although there is no specific reference to the regional roads in the vicinity of the subject site, it is intended to address localised traffic delays and to implement

various junction improvements and local reconfigurations on the regional and local road network.

7.4.12. The issue of the future provision of the South Tallaght Link Road was considered in the assessment of ABP Ref. No. PL06S.249367 and whilst I would concur with the analysis of the previous reporting inspector that such a road improvement scheme is likely to be required at some point in the future, it is notable that the NTA have not raised any issues of prematurity and would appear to have maintained their position as adopted with respect to ABP Ref. No. PL06S.249367. Furthermore, given that it has been established that the existing road network can accommodate the limited increase in traffic consequent on the proposed development, and noting that the South Tallaght Link Road is not identified in the LAP as being intrinsic to the development of the Plan area, I am not of the view that the proposed development can reasonably be held to be premature pending progress on the longer-term objective for the provision of the South Tallaght Link Road.

7.5. Infrastructural / Servicing Issues:

7.5.1. The proposed development is to be serviced by way of connection to the public mains water supply and sewerage network and in this regard Irish Water has indicated that it has no objection to the submitted proposals, subject to conditions.

7.5.2. With respect to the proposed surface water drainage arrangements, I would refer the Board to the 'Engineering Planning Report' dated April, 2019 provided with the initial application wherein it is stated that the system has been designed to accord with the Greater Dublin Strategic Drainage Study and incorporates measures aimed at improving the general surface water management of the site by introducing interceptors, attenuation measures and by restricting the final discharge from the developed site to the equivalent Q-bar runoff rates (4.9l/s). Stormwater from the roof areas of the proposed housing units will be directed into an on-site reticulation system via an adequately designed permeable paving sub-base with the outflow from this system connecting into the surface water drainage network collecting runoff from the road areas and will ultimately be discharged into stormwater detention basins located on the landscaped areas. It is stated that the system within the development has been designed to accommodate a 1:2 year storm frequency and that the detention basins can accommodate a 1:100 year storm event + 20%

climate changes. It is also proposed to install a rainwater harvesting system to serve the proposed apartment block complex.

7.5.3. The stormwater drainage was subsequently amended pursuant to requests for further information and subsequent clarification with Drg. Nos. 200 & 206 received by the Planning Authority on 9th December, 2019 detailing the approved design, including the proposed detention basins, which was deemed acceptable by the Water Services Division of the Local Authority.

7.5.4. Having reviewed the submitted details, in my opinion, the pertinent issue is the need to ensure a co-ordinated approach to the issue of stormwater drainage and, more specifically, that the system proposed is designed to provide a sufficient level of attenuation to accommodate the wider development planned for the applicant's landholding. In this regard, I note that concerns were previously raised in the Board's assessment of the Main Link Street under ABP Ref. No. PL06S.249367 wherein it was noted that the level of attenuation then proposed was not considered by the Planning Authority to be sufficient in relation to the area of 23.55 hectares of the applicant's landholding which covered a wider area than that to which the link road related. The issue was thus that the road could not be viewed in isolation and that run-off from the road and its immediate area should be considered as part of an overall plan for the management of run-off. This culminated in the attachment of Condition No. 8 by the Board in its approval of ABP Ref. No. PL06S.249367 which required revised plans to be agreed with the Planning Authority that provided for the following:

- the overall post development catchment areas for each attenuation pond/basin, integrated constructed wetlands and proposed stormtech system or equivalent within the blue line of landholding of 23.55 hectares,
- a surface water report and drawing showing post development catchment characteristics post development link road and post development housing development. The report shall show permeability factors of each catchment area,
- drawings showing surface water attenuation locations and systems of entire landholding within blue line of development. The drawings shall include a network of link road and overall post housing developments. The drawings

shall include the type and location of attenuation ponds, integrated constructed wetlands, attenuation systems such as stormtech arched type systems or equivalent, hydro brake, flow control devices and interceptors on surface water network. The drawing shall show the location of all road gullies, manholes and surface water drains, attenuation system of roads and the surface water attenuation system type and location for post housing developments.

- 7.5.5. In the subject proposal, a considerable proportion of the surface water drainage / management system (such as the detention basins) is located outside of the confines of the application site, and whilst I would have some reservations in this regard, I am amenable to the imposition of a comparable condition as was attached to ABP Ref. No. PL06S.249367 in order to address the surface water drainage concerns.

7.6. Ecological Considerations:

- 7.6.1. Whilst I would acknowledge the appellants' concerns as regards the impact of the proposed development on ecological considerations and the removal of certain trees and hedgerows, cognisance must be taken of the fact that the subject lands have been expressly earmarked for development within the Ballycullen – Oldcourt Local Area Plan. The proposed development will inevitably result in the loss of some plant and animal species from within the footprint of the proposed construction, however, having reviewed the available information, including the Appropriate Assessment Screening Report, arborist's report, landscaping proposals, and the supplementary details provided in response to the request for further information, in my opinion, the impact of the proposal will be within tolerable limits given the site context and can be satisfactorily mitigated by way of condition.

7.7. Appropriate Assessment:

- 7.7.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that although the proposed development site is not located within any Natura 2000 designation, there are a number of Natura 2000 sites within the wider area with the closest such sites being the Glenasmole Valley Special Area of Conservation (Site Code: 001209), approximately 1.3km southwest, the Wicklow Mountains Special Area of

Conservation (Site Code: 002122), approximately 3.8km south-southwest, and the Wicklow Mountains Special Protection Area (Site Code: 004040), approximately 5.0km southeast of the site.

7.7.2. In this respect it is of relevance to note that it is the policy of the Planning Authority, as set out in Chapter 9: '*Heritage, Conservation and Landscapes*' of the South Dublin County Council Development Plan, 2016-2022, to support the conservation and improvement of Natura 2000 Sites and to protect the Natura 2000 network from any plans and projects that are likely to have a significant effect on the coherence or integrity of a Natura 2000 Site. More specifically, HCL12 Objective 1 of the Plan aims '*To prevent development that would adversely affect the integrity of any Natura 2000 site located within and immediately adjacent to the County and promote favourable conservation status of habitats and protected species including those listed under the Birds Directive, the Wildlife Acts and the Habitats Directive*' whilst HCL12 Objective 2 also seeks '*to ensure that projects that give rise to significant direct, indirect or secondary impacts on Natura 2000 sites, either individually or in combination with other plans or projects, will not be permitted unless the following is robustly demonstrated in accordance with Article 6(4) of the Habitats Directive and S.177AA of the Planning and Development Act (2000 – 2010) or any superseding legislation:*

1. *There are no less damaging alternative solutions available; and*
2. *There are imperative reasons of overriding public interest (as defined in the Habitats Directive) requiring the project to proceed; and*
3. *Adequate compensatory measures have been identified that can be put in place*'.

7.7.3. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.

7.7.4. Having reviewed the available information, including the '*Appropriate Assessment Screening*' submitted with the application documentation, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and

scale of the development proposed, the site location outside of any protected site, the limited ecological value of the lands in question, the absence of any pollution pathways between the development and any Natura 2000 sites, the separation distances involved between the project site and nearby Natura 2000 designations, the built-up nature of the intervening lands, and the availability of public services, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.

- 7.7.5. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. Having regard to the provisions of the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages)” issued by the Department of the Environment, Heritage and Local Government in May 2009 and the “Urban Development and Building Heights, Guidelines for Planning Authorities” issued by the Department of Housing, Planning and Local Government in August 2018 in relation to housing density in outer suburban/greenfield sites in cities and larger towns, it is considered that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage given

the site location on the southern fringe of the existing built-up area of South Dublin County in an area that has been earmarked for residential development in both the South Dublin County Council Development Plan, 2016-2022 and the Ballycullen – Oldcourt Local Area Plan, 2014. It is considered that the low density proposed would be contrary to the aforementioned Ministerial Guidelines, which indicate that net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the provisions of the South Dublin County Council Development Plan, 2016-2022 whereby the future development of the Ballycullen / Oldcourt area will be dependent on the provision of social and physical infrastructure and services in tandem with the delivery new housing, the requirements of the Phasing Strategy set out in Chapter 6 of the Ballycullen – Oldcourt Local Area Plan, 2014, which specifies the quantum of residential development and the physical and social infrastructure, including community facilities, that are to be provided prior to the next phase of development in order to ensure that key pieces of infrastructure are delivered in a sequential manner as development progresses, it is considered that the proposed development, when taken in conjunction with the scale of permitted and completed developments within the western extent of the Local Area Plan lands, would result in the further development of zoned lands in the absence of essential services and facilities required to be provided in tandem with the development of the said lands under the statutory Local Area Plan for an indefinite period. The proposed development would, therefore, contravene the phasing strategy of the Ballycullen – Oldcourt Local Area Plan, 2014 and would be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

10th August, 2020