



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309525-21

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<b>Development</b>	Demolition of house and ancillary outbuildings, construction of 4 storey building accommodating 20 apartments (Revised to 19No. apartments).
<b>Location</b>	Hillhouse, Lucan Road, Lucan, Co. Dublin
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD20A/0142
<b>Applicant(s)</b>	Frances Dowling
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Lucan Height Residents. Bernard and Vivienne Coyne
<b>Observer(s)</b>	1. Graham J. Coyne, 2. Daniel Kennedy and Amanda Roche

3. Cllr Paul Gogarty,
4. Richard and Maria Forster,
5. Lea Boyle, 161 Beech Park,
6. John and Gillian O Sullivan
7. Tom Farrell & Shauna Murphy

**Date of Site Inspection**

30th of June 2021.

**Inspector**

Caryn Coogan

## 1.0 Site Location and Description

- 1.1. The appeal site is an existing single dwelling curtilage, 0.1925ha on the southern side of the Lucan Road east of Lucan town centre. The site is almost square in configuration with a generous roadside boundary addressing Lucan Road at a strategic entry point into the village. The site backs onto Lucan Heights a residential estate, with St. Mary's Church and Presentation Convent to the west.
- 1.2. The site is level, accommodating a large dwelling and outbuildings, with a lawn and tarmac surfaces. The large shed is on the southern boundary of the site and the dwelling is on the western portion of the site.
- 1.3. To the south of the site is Lucan Heights, a two storey residential development. The immediate dwelling is 4 Lucan Cloisters located along the rear boundary of the subject site and owned by one of the third-party appellants.
- 1.4. To the east is a pedestrian link between Lucan Road and Lucan Heights. The adjoining dwelling to the east is Lucan Pieta House which is an office and consultation rooms.
- 1.5. The existing vehicular access to the site is directly off Lucan Road and is positioned at the north-eastern corner of the site, and approximately 50metres from a busy controlled junction. The site is enclosed and screened from public view by mature tall boundary planting.

## 2.0 Proposed Development

- 2.1. The proposed development involves the demolition of the existing dwelling and ancillary buildings at Hillhouse, Lucan Road. The construction of a four storey building accommodating 20No. apartments, with the following mix:

- 5No. one bedroom apartments;
- 15No. two bedroom apartments.

***The scheme was revised to 19No. units within a four storey block by the further information received on 23/12/2020.***

Site Area	0.1925ha
<b>No. of units</b>	19 (as per further information 23/12/2021)
<b>Density</b>	98 units per hectare
<b>Plot Ratio</b>	0.86
<b>Site Coverage</b>	28.83%
<b>Height</b>	Recessed 4 storeys (11.8m)
<b>Dual Aspect</b>	75%
<b>Open Space</b>	540sq.m.(exceeding 10% of site area )
<b>Part V</b>	2No. one bedroom apartments
<b>Vehicular Access</b>	Lucan Road and Lucan Heights
<b>Car Parking</b>	13No. spaces
<b>Bicycle Parking</b>	16No. spaces
<b>Creche</b>	None.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

South Dublin Co. Co. granted the proposed development on 29<sup>th</sup> of January 2021 subject to 30No. standard planning conditions.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. **Planning Reports**

- Proposed density is 105 units per hectare and is acceptable in principle
- It is a similar development to SD19A/0198 with the following significant changes:
- An additional separate entrance to the east of the site;
- Left turn only onto Lucan Road;
- Height of building reduced from 3 to 2 storeys at the southern most corner;

- Reduction in number of apartments from 21 to 20;
- Bike and bin store relocated;
- The planning design report addresses policy context, design strategy, urban design, layout, distinctiveness, parking, public realm, privacy and amenity;
- Apartments meet with internal design specifications;
- The proposal complies with SPPR 3 of the Guidelines. The two-storey element gives a height of 7.75m and rises to three storeys 9.2m, and would be overbearing and has not addressed reasons 2 and 3 of previous refusal;
- Carparking provision is less than development plan standards but there is a quality bus route serving the area;.
- Open space acceptable;
- Conditions from Water Services and Irish Water;
- Photomontages in particular Lucan Heights PL4-102;

### 3.2.2. Other Technical Reports

***Parks/ Landscape Services*** :- No objections subject to conditions relating to landscaping and SUDS (swales, permeable paving, filter drains, rain gardens, integrated tree pits in hard standing areas and green roofs.

***Housing Section*** : Condition required regarding Part V

#### **Roads Department:**

- Access off Lucan Road is left in and left out only.
- Secondary vehicular access off Lucan Heights with an informal give way to traffic at the entrance.
- The trees along the east side of the development need to be removed to allow passive surveillance of pedestrian link to Lucan Heights
- Zone 1: There are 24No. spaces required for the 20No. apartments. 13No. spaces proposed parking provision of 065 spaces per unit is acceptable
- There are 6No. bicycle spaces required and it is proposed to provide 16No. spaces

- Conditions recommended.

**Water Services:** No objection subject to conditions

**EHO:** Conditions recommended

### 3.3. **Prescribed Bodies**

None

### 3.4. **Third Party Observations**

There was a high volume of objections from third parties to the proposed development citing the following concerns, which have also been raised by the third party appeals and observations:

- Traffic Safety
- Pedestrian safety
- Loss of privacy
- Excessive height
- Noise pollution
- Right of way/ access
- Insufficient parking
- Out of character with the pattern of development in the area
- Contrary to local and national planning policy
- Construction and demolition waste Plans not provided

## 4.0 **Planning History**

### 4.1 **Planning reference SD19A/0198**

On the same site there was planning permission refused for the demolition of all the structures on the site and the erection of 21No. apartments, 13No. carparking spaces on 0.1925 hectares for 4No. reasons:-

- Intensification of traffic at the entrance in close proximity to a controlled junction onto a heavily trafficked regional road.
- The proposed building would be visually obtrusive and would adversely impact on the visual and residential amenity of adjacent residential properties
- Overbearing impact on the dwellings to the south
- Having regard to the Urban Development and Building Guidelines for Planning Authorities (Dec 2018) the planning authority is not satisfied the development complies with Section 3.0 of the guidelines.

## 5.0 Policy Context

### 5.1. National Policy

- National Planning Framework 2040  
National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas. The activation of these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs. Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and / or brownfield sites.

Objective 13 states that, in urban areas, planning and related standards including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes to achieve targeted growth.

Objective 35 promotes increased densities through measures including infill development, area or site-based regeneration and increased building height.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the 'Sustainable Residential Development Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Architectural Heritage Protection- Guidelines for Planning Authorities (2011).
- Childcare Facilities – Guidelines for Planning Authorities (2001).

## 5.2. Development Plan

The relevant development plan is the **South Dublin County Development Plan 2016-2022. MAP 1**

The subject site is zoned **RES** which it is an objective *to protect or improve residential amenity*.

### 2.2.2 RESIDENTIAL DENSITIES

Government policy as outlined in the Sustainable Residential Development in Urban Areas Guidelines recognises that land is a scarce resource that needs to be used efficiently. These guidelines set out a range of appropriate residential densities for different contexts based on site factors and the level of access to services and facilities, including transport.

Densities should take account of the location of a site, the proposed mix of dwelling types and the availability of public transport services. As a general principle, higher densities should be located within walking distance of town and district centres and high capacity public transport facilities.



## **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 1:**

To ensure that the density of residential development makes efficient use of zoned lands and maximises the value of existing and planned infrastructure and services, including public transport, physical and social infrastructure, in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

### **H8 Objective 2:**

To consider higher residential densities at appropriate locations that are close to Town, District and Local Centres and high capacity public transport corridors in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

### **H8 Objective 3:**

To encourage the development of institutional lands subject to the retention of their open character and the provision of quality public open space in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

## **2.2.3 RESIDENTIAL BUILDING HEIGHT**

A policy shift towards more compact and sustainable forms of development over the past two decades has resulted in increased building heights in the County. Varied building heights are supported across residential and mixed use areas in South Dublin County to promote compact urban form, a sense of place, urban legibility and visual diversity (see also Chapter 5 Urban Centres & Retailing and Chapter 11 Implementation).

## **HOUSING (H) Policy 9 Residential Building Heights**

**It is the policy of the Council to support varied building heights across residential and mixed use areas in South Dublin County.**

### **H9 Objective 1:**

To encourage varied building heights in new residential developments to support compact urban form, sense of place, urban legibility and visual diversity.

### **H9 Objective 2:**

To ensure that higher buildings in established areas respect the surrounding context.

### **H9 Objective 3:**

To ensure that new residential developments immediately adjoining existing one and two storey housing incorporate a gradual change in building heights with no significant marked increase in building height in close proximity to existing housing (see also Section 11.2.7 Building Height).

## **2.3.1 RESIDENTIAL DESIGN & LAYOUT**

### **HOUSING (H) Policy 11 Residential Design and Layout**

**It is the policy of the Council to promote a high quality of design and layout in new residential development and to ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development.**

#### **H11 Objective 1:**

To promote a high quality of design and layout in new residential development and to ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development in accordance with the standards set out in Chapter 11 Implementation.

#### **H11 Objective 2:**

To promote new residential developments taking account of energy efficiency, prioritising passive house construction standards, as well as renewable energy opportunities, including solar energy where appropriate, in accordance with Part L of the Building Regulations.

## **2.4 Residential Consolidation – Infill, Backland, Subdivision and Corner Sites**

**Policy 17** states it is the policy of the Council to support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services to meet the future housing needs of the County.

H17 Objective 1: To support residential consolidation and sustainable intensification at appropriate locations and to encourage consultations with existing communities and other stakeholders.

H17 Objective 2 : To maintain and consolidate the County’s existing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards.

H17 Objective 5: To ensure development in established areas does not impact negatively on amenities or the character of the area.

H17 Objective 7 ; To support and facilitate the replacement of existing dwellings with one or more replacement dwellings, subject to the protection of existing residential amenities and the preservation of the established character.

Objective 8 2: To consider higher densities at appropriate locations that are close to Town, District and Local Centres and high capacity public transport corridors in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas

H9 Objective 3: To ensure all new residential developments immediately adjoining existing one and two storey housing incorporate a gradual change in building heights with no significant marked increase in building height in close proximity to existing housing.

## **Carparking**

### **Section 11.4.2 Carparking Standards**

#### **5.3. Natural Heritage Designations**

The site is not located within any designated site or connected to any Natura 2000 site. The site is a brownfield site in a serviced urban area.

#### **5.4. EIA Screening**

Having regard to the planning history of the site, the brownfield nature of the subject site, together with the scale of the proposed development, 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**

There are two detailed third party appeals against the planning authority's decision to grant planning permission for the proposed development. The relevant issues arising in each appeal are summarised below

#### **6.1.1 Lucan Heights Residents**

- The proposal will have a negative impact on residential amenity and the safety of road users and pedestrians. There was no assessment of the existing traffic situation, particularly in relation to peak traffic in the village. No mobility or management plan was carried out. Lucan Heights could be used for construction traffic.
- The entrance to the site on the Lucan Road will be used for access by Emergency vehicles and utility vehicles. The access design requires refuse trucks and other large utility trucks to turn into the site which is flawed and inappropriate. The left turning refuse truck located in the right turning lane

would be crossing traffic on the inside straight through lane posing a significant risk of collision. There would be reduced visibility of pedestrians.

- There are four schools and two second level schools nearby. Entrance through Lucan Heights/ Cloisters means taking part of the pedestrian walkway which will affect safety.
- There is no consideration given to the lack of carparking and the impact that will have on the surrounding area and the access from Lucan Heights via the proposed back entrance.
- The proposal will lead to overshadowing, overbearing and overlooking all of the neighbouring properties with loss of residential amenities.
- It is appealing the entrance is off the old Lucan road which is congested and the Road Department had no comment on this.
- The density in the immediate area is 20units per hectare, the proposed development represents 103 units to the hectare which is out of character with prevailing densities.
- **Planning History** Having examined the refusal on the site SD19A/0198 it has not been established in the current proposal how the traffic reason for refusal has been overcome, as it is not an improved proposal. The southern most element of the proposal has been reduced in height, the scheme remains overbearing.
- No construction and demolition waste management plan was submitted with the planning application.
- Section 6.4.4 of the Plan deals with car parking standards in the area. Sections TM7 Objective 1, TM7 Objective 3 and TM7 Objective 4. The subject site is within 500m of a Quality bus stop. The service is poor and the site would be classified within a Zone 2 (residential ) area. On the basis of the standards in Table 11.24 there is 0.75 No. spaces per bedroom and 1 space for two -bedroom apartments. There are 19No. spaces required to service the development as opposed to the 13No. spaces proposed. The lack of carparking provision will impact on the surrounding area. National policy is to reduce the reliance on cars.

- The proposal does not overcome the previous reasons for refusal.
- The scale, height and depth does not comply with the pattern of development in the area.
- The proposal significantly affects the residential amenity of most residents of Lucan Heights cul de sac and is a material contravention of the zoning objective. The proposal does not protect or complement existing amenities. The proposal overlooks and overbears adjoining properties.
- On the 29<sup>th</sup> of September 2020 a survey was carried out of the number of people that use the pedestrian walkway during 8.00am and 8.00 pm, it was 665 No. persons.
- The requirement for higher densities cannot be crudely applied to every site, e.g. Rita O'Neill Vs An Bord Pleanala. The proposal is a material breach of the planning documents prepared for the area.

#### 6.1.2 **Bernard and Vivienne Coyne, 4 Lucan Cloisters**

The further information revised the scheme from 20No. units to 19No. units which is overdevelopment of a restricted site, which is 98No. residential units per hectare in close proximity to their home will have catastrophic and irreversible affects. A lot of the issues raised in their appeal overlap with the issues raised in the other third party appeal. I will tried to avoid undue repetition in my summary of the key points.

- The proposal does not overcome the reasons for refusal and the assessment of the case. There will be a signifigant loss of residential amenity onto their property, and overbearance due to the sheer extent of its massing and scale and proximity to their property. The commercial and residential benefits of the two extra apartments on the fourth floor do not outweigh the devastating impact the fourth storey will have on their house, and general overlooking and loss of privacy.
- There are two vehicular access points, with direct access onto the R835 and a separate access onto Lucan Heights (a mere 3.5metres form their pillar).
- Private Ownership Folio No. DN62475F the folio is a strip of land which includes roads, footpaths etc immediately in front of 5No. properties (No.s 1-4 The Cloisters and 38 Lucan Heights). Bernard Coyne acquired the folio over

33 years ago as part of the development and construction 1-4 Lucan Cloisters. A letter of consent has not been obtained by Frances Dowling for use of the property/ right of way. This brings into question the validity of the planning application. The applicant is proposing to carry out workshop an existing roadway which is not in the ownership of the applicant. There is a lack of information regarding the works that are proposed outside of the application boundary.

- **Access and Traffic Hazards**

This is the fundamental concern of the appeal. Reason No. 1 of the refusal under planning reference SD19A/0198 was

*The proposed intensification of traffic at the access to the site in close proximity to a controlled junction and onto a heavily trafficked road would result in increased traffic hazard. It is considered the proposed development would endanger public safety by reason of a traffic hazard.*

There is no Traffic Impact Assessment with the current proposal. The proposed traffic arrangement and access points do not constitute a solution. The subject site does not have the capacity to facilitate the increase in density and subsequent increase in traffic volume.

At present there are 3No. different vehicular access points to Lucan Heights, Chalet Gardens, Beech Park and adjoining neighbours. Extensive tailbacks occur at Chalet Gardens as residents seek alternative vehicular access. It is unbelievable that another vehicular access would be opened at the expense of a well established pedestrian access at Lucan Heights, thereby impacting negatively on a safe pedestrian access. There is a high volume of schools in the immediate area, and the proposed development has implications for pedestrian safety.

There are 13No. carparking spaces proposed which equates to a shortfall of 9.25 spaces. The development plan determines there should be 22No. spaces provided. The location of the proposed development does not warrant a reduction in development standards. This concern is amplified as the development will be accessed off Lucan Heights, and there could be an overspill of parking. The applicants statement regarding public transport is

misleading. The closest railway station is at Adamstown and Clonsilla. Lucan Road does not have dedicated cycle lanes. The local bus routes travel between Dublin and Maynooth with limited radial routes offered.

The main access of the development prohibits a right turn onto Lucan Road. A secondary access point allows for an in/out access located in the south eastern corner off Lucan Heights. The secondary access is only 3.5metres from the pillar associated with the appellants gateway. The proposed access route demonstrates the development represents an overdevelopment of a confined site, creating a high density development devoid of adequate parking. Providing a secondary access onto a quiet and narrow residential estate is not a solution which favours development over the amenity of the area.

There has been an informal giveaway arrangement granted by South Dublin Co. Co. to serve the development. The giveaway is over private property that is in private ownership, and there has been no consent given. Access into and outside the site off Lucan Heights will require one car to pull in to allow and other car to pass. This ultimately blocks both driveways of No.s 3 and 4 Local Cloisters. This informal design solution should never have been accepted, especially regarding vehicular and pedestrian safety. The term 'informal giveaway' has caused so much confusion in reviewing the planning application, and this will cause confusion for road users. There should be no informal arrangement as far as school children are concerned.

The Board is asked to REFUSE the proposal on traffic and pedestrian safety grounds, and in the event of permission been granted the secondary access is removed in the interests of public safety. The proposal is too dense and too intense to have any informal arrangement and has been mistakenly accepted by the Roads Section of the local authority.

Lucan Road serves a multifunctional network which allows for a multitude of residential access points along a short stretch of road. There is a limited bus corridor. Given the high number of residential accesses along a short stretch of road, it is chaos during peak hour. The proposal should be refused on this basis.



The proposal has been permitted with a left turn only to exit onto Lucan Road via the main entrance. Construction traffic should be restricted to use the Lucan Road only.

The proposal should be refused on traffic grounds similar to planning reference SD19A/0198 because the reason for refusal has not been overcome.

- **Overdevelopment of the Site**

The Board's attention is drawn to Drawing No. PL3-101A presents an inaccurate representation of the relationship between the clients home and the proposed development. No. 4 Lucan Cloisters is positioned 1.2metres from the shared boundary. The drawings have given a distorted 4.6metre separation distance between opposing gables. A reduction of the proposed development to 3storeys would have a sizable impact on the overbearing impact and impact on residential amenity. The Board has to consider the two storey dwellings that directly adjoin the proposed development, a greater setback has to be provided.

The development will completely change the streetscape along Lucan Road. The four storey block is completely out of character withy the existing streetscape. There are CGI images presented on appeal that demonstrate the distorted impact the proposal block with have on the existing built environment. The proposed block is 12m in height, and has a continuous massing that will result in the streetscape been dominated with little visual relief or integration into the existing landscape.

- **Loss of Privacy**

The proximity of the southern element of the proposal is cause for concern because there is a sense of overlooking. The existing dwelling is only 4.6m from ground and first floor of the development, and 10.5metres form second floor. There is perceived overbearing, and the opaque windows when opened with afford clear views into their private areas, as it is over looked by a multitude of windows.

- **Noise and Dust Pollution**

Due to the proximity, there will be an echo created onto 4 Lucan Cloisters. The shared bicycle facilities are located adjacent to the shared boundary creating noise. There was no inward noise impact assessment carried out. The noise generated by vehicular traffic has not been properly assessed.

There will noise generated from the demolition works, which was also a concern for the reporting EHO on file. There should be conditions attached regarding noise disturbance to safeguard adjoining amenities. There has been no Construction Management Plan provided and the concern is also dust.

- **Contravention of Planning Policies**

*Zoning* : The development is in direct contravention of the zoning objective to protect and/or improve residential amenity. It drastically reduces the amenities of adjoining properties.

*Infill Development*: The proposed development is not an appropriate infill development as it does not sufficiently protect existing residential amenities and fails to preserve the established character of the surrounding residential area. The proposal will tower over adjoining dwellings with a severe loss of existing amenities which is a direct contravention of the stated infill policies of the plan (Section 2.4, H17).

*Residential Densities*: The proposed density is 98No. units per hectare, which is excessive when compared to prevailing densities in the area. The development is completely out of character. The site is located at a busy junction and will put pressure on existing road network. Section 2.2.2 H8 of the county development plan

*Building Heights* : The proposal contravenes H9 Objective 3 whereby a gradual change in building heights is required, particularly close to existing housing. The proposal is too close to No. 4 Lucan Cloisters and there is a dramatic increase in building height which is overbearing from the adjoining properties.

*Carparking* The lack of car parking will have an inevitable impact on the surrounding areas and more specifically to Lucan Heights. There are no

strong transport links in the area, and the development will attract a high level of car dependent dwellers.

- **National policy and Guidelines**

The higher density on the site is not appropriate to the location as the proposal has failed to ensure existing dwellings are protected from an intense form of development.

Most of the content from this section has already been summarised above. The relevant publications are stated in Section 5.1 of this Report.

- **Mitigating Conditions to be considered by the Board**

The Board is requested to REFUSE the proposed development. However, should the Board decide to granted permission for the proposed development the following conditions are recommended.

- (a) Maximum three stories- Figure 24 and 25 illustrate the less impact on Lucan heights
- (b) Removal of access form Lucan heights and insertion of pedestrian access only
- (c) Increased screening between 4 Lucan Cloisters and the proposed development]
- (d) Increased setback of the two storey element
- (e) Relocation of the bike store from the shared boundary
- (f) Additional pedestrian safety measures
- (g) Reduction in the number of windows along the southern elevation
- (h) construction Traffic Management Plan that does not include the use of Lucan Heights.

## 6.2. Applicant Response

PMCA Architects has responded on behalf of the appeal to the third party appeals.

- (i) **Vivian and Bernard Coyne**

The appellants question the validity of the planning application on the ground they own a section of roadway and footpath over which access is required in order to provide a secondary vehicular access point to the development and states they acquired the folio, Folio DN62457F 33 years ago. Attached to the appeal submission is the actual folio which shows the which is under the ownership of a limited company JAYCE PROPERTIES LIMITED. The company was dissolved on 11<sup>th</sup> of September 2011 and the last submission of accounts was on the 31<sup>st</sup> of December 1988, 33 years ago. Permission is not required to pass over the lands as they are part of the public realm and in charge of the local authority.

The applicant has addressed all of the following issues raised on appeal in the planning application documentation:-

- Access and Traffic hazards
- Overdevelopment of the site
- Overbearing impact
- Negative visual impact and residential amenity
- Loss of privacy
- Noise and dust pollution
- Contravention of planning policy

The proposed development does not cause a traffic hazard as clearly demonstrated in the application documents. The design of the proposed development ensures there will be no loss of privacy to adjoining properties and detailed assessment of the planning application by the planning authority shows the proposal is not in contravention with current planning policy. The design of the scheme complies fully with stringent design quality requirements as set out in the South Dublin County Council Development Plan 2016-2022 and Urban Development and Building Height Guidelines of Planning Authorities (December 2018). The proposal provides a high quality apartment scheme in an area that is dominated by 3 and 4 bedroom houses. There are photographs submitted of parking in Lucan Heights, which is a lot less than those submitted on appeal.

**(ii) Stephen McCabe**

The proposal takes full cognizance of the site's context and by designing a development and associated services that is part two storey, part three storey with a 4<sup>th</sup> storey element that complies with all planning policy and requirements.

The submissions lodged by the third parties do not represent or provide any substantive evidence to support their objections or reverse the decision issued by the planning authority.

### **6.3. Planning Authority Response**

The planning authority conforms its decision with no further comment to make on appeal.

### **6.4. Observations**

The observations mainly raised the same concerns as the two third party appeals and I do not want to cause undue repetition, therefore a brief summary of the issues raised is outlined below .

- (i) Graham J. Coyne, 17 Morrow House, The Coast, Baldoyle
  - (ii) Daniel Kennedy and Amanda Roche, 3 Lucan Cloisters, Lucan Heights
  - (iii) Cllr Paul Gogarty, Esker Lawns, Lucan
  - (iv) Richard and Maria Forster, 70 Lucan heights, Lucan
  - (v) Lea Boyle, 161 Beech Park, Lucan
  - (vi) John and Gillian O'Sullivan, 59 Lucan Heights, Lucan
  - (vii) Tom Farrell & Shauna Murphy, 41 Lucan Heights, Lucan
- Lucan Hights where the secondary access is proposed, experiences heavy congestion with residents' vehicles, and vehicles of parents of 6 nearby schools. With only 13No. spaces proposed to serve 19No. apartments there will be overspill onto Lucan Heights.
  - The rapid rise of housing in the area has not been met with infrastructure, in particular public transport.

- The proposal will be overbearing to No. 4 The Cloisters and surrounding buildings
- The removal of the four-storey recessed apartment was merely cosmetic and did not address the overbearing and overshadowing and bulk.
- There will be a devastating impact to existing residential amenities and the character of the surrounding area. If the fourth floor were removed the negative impact would be diminished considerably in terms of overshadowing, overbearing, and three storeys would tie in better with height and character of the local area.
- The informal design and access arrangement permitted by SDCC is alarming, there would never be anything informal relating to cars, access and pedestrians. The secondary access should be removed. This would favour the hundreds of school going children that use the adjoining pedestrian link. A detailed traffic assessment should have been carried out.
- New issues have been raised by the third party appeals that were not considered by the planning authority eg. The folio, photographic evidence of traffic congestion in Lucan Heights and images of a three storey proposal
- There is no construction management plan.
- A pedestrian access onto Lucan Heights would be acceptable instead of the vehicular entrance.
- There has been no evidence provided to suggest any entitlement on the applicants part or consent on the owner's part for development of work/ traffic on the property at Lucan Heights.
- The density of the proposed development on 0.1925Ha is too high and contrary to objective H8
- There will be 70new residents into the complex which will cause excessive noise.
- Public footpath at the northwest corner of site is narrow, between traffic light and wall of the proposed development, creating a very congested pedestrian

walkway, creating a tunnelling affect, and it is currently difficult to negotiate prams and pedestrian particularly during school times.

## 7.0 Assessment

The proposed development involves the demolition of a dwelling and ancillary buildings on a residential curtilage of 0.195Ha, to provide a single apartment block on an urban site in Lucan, Co. Dublin which is zoned for 'Residential' use in the current development plan governing the area. South Dublin Co. Co. granted planning permission for the development which has been appealed by a number of residents, and supported by a number of observers living area who are mainly concerned about the scale, height, massing, traffic/ access associated with new proposal, potential negative impacts in terms of visual amenities, loss of privacy and light, overbearing, and pedestrian safety, etc.

This is second planning application on the subject site for a similar development that was previously refused under planning reference SD19A/0198 (see Section 4 of this report) for 4No. reasons, which the applicant and the planning authority consider have been overcome in this current proposal. The planning application was robustly assessed by the relevant technical departments of South Dublin Co. Co. and I have considered the content of the planning application file and the appeal file in the assessment of this case.

The appeal will be assessed under the following relevant headings:

- National Policy
- Local Planning Policy
- Design/ Layout, Impact on Visual Amenities
- Impact on Residential Amenities
- Traffic/ Parking
- Other Issues
- Appropriate Assessment.

## 7.2 National Policy

The **National Planning Framework – Project Ireland 2040** was published in February 2018. This document will guide strategic planning and development for the country over the next 20+ years, to ensure the population grows in a sustainable manner (in economic, social and environmental terms). **National Policy Objective 32** is to deliver 550,000 additional housing units throughout Ireland in a sustainable manner. The subject site is located in the residential heart of Lucan village beside schools and community facilities. The subject site is a brownfield, infill development site in an urban area, hosting a single large dwelling and shed. I consider the site to be an underutilized urban site located within at strategic location with proximate accessibility to public transport and town center facilities. The proposed apartments will provide increased diversity of housing to meet with future community needs.

**National Policy Objective 35** requires increased densities using increased building heights which according to Objective 33 the heights should be an appropriate in scale relative to the location. The site is surrounded by two story dwellings, in particular to the south at Lucan Heights where there are houses adjoining the subject site along its rear boundary. The provision of 19No. apartments on the site (as revised by way of the further information submitted on the 23<sup>rd</sup> of December 2020) will ensure the appropriate densification of an infill urban site.

In terms of **Urban Development and Building Height Guidelines for Planning Authorities 2018**, it is stated government policy that building heights must be generally increased in appropriate urban locations. The proposed building contains 19No. apartments within a part 2 storey, part 3 storey and part 4 storey building stepping down towards the southern site boundary (Lucan Heights) to 2 storey. The top floor (4<sup>th</sup> storey) has been setback to reduce the overall visual impact of the development and potential for overlooking of existing residential properties.

The general area is dominated by two storey residential housing estates and I consider the location to be appropriate for the graduated introduction of increased heights. The road frontage along Lucan Road is significant. The proposed height is



12 metres, which is not a significantly recognizable increase in building heights from the contiguous buildings and the church building to the west. I consider the proposed site is imminently suitable to provide the proposed increase in height.

### 7.3 Local Planning Policy

Lucan is one of three towns in the South Dublin County Development Plan 2016-2022, which is designated as a 'Metropolitan Consolidation Town'. Lucan and other consolidation towns have been identified as areas for the provision of significant housing development in the county's area and this is set out in Table 1.1 of South Dublin Settlement Hierarchy under the Regional Planning Guidelines. As stated the subject site is zoned Objectives 'RES' in the South Dublin County Development Plan 2016-2022. This zoning objective is '*to protect and/ or improve residential amenities*'. The proposed apartment building is in keeping with the residential zoning objectives. Policy H8 states it is the policy of the planning authority to promote higher densities at appropriate locations, and the proposed density is 105No. residential units per hectare with a plot ratio of 0.86 is in accordance with planning policy and standards.

The site is located within a mature residential area supported by a network of community and social facilities positioned within walking distance of the site and public transport. Residential use is permitted in principle and is compatible with adjoining land uses.

### 7.4 Design and Layout/ Impact on Visual Amenities

The new apartment block is positioned centrally on the site, it has an L-shaped footprint. The main elevation (north facing) is onto Lucan Road with the eastern elevation of the block tapering downwards towards Lucan Heights. The street frontage elevation is contemporary in design. It is four storey height (with the fourth floor stepped back) and reduces to two storey (Core B) on the southern elevation adjoining two storey dwellings. The legibility of the proposed building is much larger than the prevailing two storey detached dwellings, however the proposed height has been reduced on both sides and setback on the top floor to 12metres, providing a

dimension that maintains a scale relevant to the adjoining buildings in terms of height.

The third parties consider the overall height to be excessive, and it will create overbearing impact and is contrary to Policy H9 Objective 3 of the development plan because it is too close to No. 4 Lucan Cloisters, where there will be a dramatic increase in height. In response to this issue the site is not located in a highly sensitive architectural streetscape. The predominant height is two storey dwellings with a church further west along the streetscape. The development reduces in height along the southern boundary matching the two-storey height of existing houses (Lucan Cloisters), and then graduates to three and four storey.. In architectural terms there is a graduation in height, with building lines matching the front building line of the dwellings in the Lucan Cloisters cul de sac. There is no drastic increase in height between the existing and proposed residential properties.

On appeal it has been requested the fourth floor should be removed from the entire scheme reducing the proposed block to two and three storeys only.

The adjoining two storey dwelling to the south is 5metres from the building line of 4 Lucan Cloisters. The fourth floor is setback 15metres from the building line. The proposed street view along Lucan Road provides a contemporary high quality design and building envelop that will not look out of place along the streetscape.

Streetview No. 4 as per Drawing PL4-102 depicts the apartment block from the cul de sac to the south. I would not consider the proposal to be overbearing as described by the appellants. The section drawing illustrates the relationship of the proposed block to the adjoining dwelling including overlooking potential, as most of the proposed windows adjoining the dwelling to the south have obscure glass. I have examined the appeal drawing with the fourth floor removed, and although this is a subjective issue, I consider the suggestion creates an inferior and unnecessary adjustment to the overall design.

The proposed height (12metres) will read as a graduated dimension along the streetscape of Lucan Heights when viewed from the Dublin approach into the

village. Given the orientation, the configuration of adjoining curtilages and setbacks from adjoining properties, the level of overshadowing resulting from the proposed development will be negligible as discussed below.

## 7.5 Impact on Residential Amenities

The apartment block is orientated north facing and east facing which prevents direct overshadowing of adjoining residential properties. The windows on the southern elevation have been minimised, obscured and are recessed at high level. The development has been configured that it does not result in any opposing facades at any point on the site. The apartment building has been designed and setback to ensure there is no undue overlooking of adjoining properties. The bulk of the building is concentrated towards the northern boundary along the public roadway.

As stated, the uppermost floor of the proposed building has been setback to reduce the potential for overlooking of surrounding properties and to provide a graduation in height from the adjacent dwellings. The potential for overlooking is further mitigated against, by the inclusion of existing soft landscaping along the boundaries.

Having regard to the configuration of adjoining residential curtilages and the proposed separation distances from the same residences, there will be minimal impact in terms of overlooking or loss of privacy of adjoining properties. This is an urban/ suburban location, and a certain level of oblique overlooking of private rear gardens is to be anticipated within residential areas.

### Loss of Daylight/Sunlight/Overshadowing:

The provisions of BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) are relevant in the assessment of this development. The document is referenced in Section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that

this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines and the South Dublin County Development Plan.

I have also carried out a site inspection, considered the submissions received that have raised issues in respect of potential impact on their houses and properties as a result of overshadowing/loss of sunlight/daylight and reviewed the planning drawings relating to the properties to the south of the appeal site.

A Daylight Analysis and Overshadowing report was prepared by Heffernan 3D and was submitted as part of the planning documentation by the applicants. There is nothing apparent in the documents and drawings submitted that would highlight any issue here. The proposal complies with BRE209 requirements, based on the planning documentation submitted, I am satisfied that this is not a material issue.

Regarding potential impact on third parties, the analysis of loss of light or overshadowing of neighbouring properties. and Virtual Sky Component (VSC), Annual Probable Sunlight Hours (APSH), have been conducted by the applicants. I am satisfied that there should not be significant impact regarding any potential impact upon the neighboring residential properties. I am satisfied that due to the compatible building lines and separation distances and the orientation of the proposed apartment block to the north of the existing dwelling, the proposed development would not have any excessive overshadowing impact on existing properties within Lucan Heights or their associated amenity spaces. Therefore, I consider the potential impact to be acceptable.

The proposed bin store and bike store are positioned in the south-western corner of the site where there will be passive surveillance from the apartment block towards the storage area and adjoining public open space area. There will be pathways provided around the perimeter of the building, providing a safe, functional and comfortable living environment. The efficient management and maintenance of the development is an important consideration, and I consider the storage location on site in the south-western extremity to be appropriate. The public open space are is also appropriately located where optimum passive surveillance can occur from the

apartments, in addition to it creates a buffer area between existing and proposed residential properties.

The appellants state the proposal will overlook, and overbear adjoining residential properties, and yet they provide no technical evidence to support their claims, whereas the planning application documentation clearly demonstrates the proposal will not result in undue loss of privacy or overshadowing. These factors were salient in the planning authority's assessment and granting planning permission for the development.

## **7.7 Traffic/ Parking**

The existing access to Hillhouse off Lucan Road will be widened and it will be sufficient to allow a Fire and Bin truck access. The main entrance is left in and left out only because of the proximity to a busy signalled junction. The front boundary wall will be a low wall and railings and this will continue along the pedestrian link along the eastern site boundary.

There is a secondary vehicular access onto Lucan Heights to take pressure off the left in a left out arrangement. The main access to Lucan Heights is further west along Lucan Road beyond St. Joseph's College.

The appellants question the validity of the planning application on the grounds they own a section of roadway and footpath over which access is required to provide a secondary vehicular access point to the development via Lucan Heights, and state they acquired the folio, Folio DN62457F 33 years ago. Attached to the appeal submission is the actual folio which shows the ownership of the area as a limited company JAYCE PROPERTIES LIMITED. The company was dissolved on 11<sup>th</sup> of September 2011 and the last submission of accounts was on the 31<sup>st</sup> of December 1988, 33 years ago. Permission is not required to pass over the lands as they are part of the public realm and in the charge of the local authority.

The secondary entrance includes a sliding gate, it does not have a free flow of traffic via the development from the primary to the secondary entrance as depicted by the appellants. Turning movements into and out of the site at Lucan Heights will be slow due to the narrow nature and configuration of the road, in addition to the relationship to the pedestrian link onto Lucan Road. The contextual elevations reveal the

visibility into and out of the site from the adjoining road and pedestrian network will be clear.

There are 13No. carparking spaces proposed to cater for 19No. apartments leaving a shortfall of 6No. spaces as per the development plan requirement of one space per apartment. The parking layout is to the east of the apartment block between the two access points to the development. The subject site is located within walking distance of schools, the village centre and a number of high quality bus routes. The proposal of one space per apartment is considered to be appropriate for the urban location.

Although I consider the proposal to be a modest development in traffic terms, a Mobility Plan and Safety Audit should form part of the conditions. The Roads Department of the Planning Authority assessed the traffic issues relating to the case and recommended 11 No. conditions.

As regards the informal arrangement to provide access from Lucan Heights into the site, the Lucan Cloisters cul de sac ends at the pedestrian lane and entrance to the subject site. The road configuration is narrow at this point, however the access to the subject site is only a secondary/ subsidiary access to the main access off Lucan Road. The planning authority has agreed in principle to the technical issues and it is satisfied with the access arrangements. There will be clear view of all traffic movements into and out of the secondary access, I do anticipate a hazard to pedestrians. In my opinion, The opening up of the site along the eastern boundary will provide passive surveillance of the path and create a safer link for pedestrians.

## **7.8 Other Matters**

Standard Part V conditions are applicable in this case.

Parks and Landscape prepared a report regarding the proposed development whereby additional information was required regarding SUDs design and a Landscape Masterplan.

The conditions included in the Water Services Report (14/07/2020) are to be included should the Board decide to grant planning permission for the apartment block.

## 7.9 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, a residential infill development on the grounds of an existing dwelling curtilage, which is located in a built up serviced urban area of the Greater Dublin Area, and separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

## 8.0 **Recommendation**

- 8.1. The Board should uphold the planning authority's decision to grant planning permission for the proposed development.

## 9.0 **Reasons and Considerations**

Having regard to the zoning of the site, the pattern of development in the area, and the design, form and height of the proposed apartment building, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with national policy and local development policies and objectives for the area, would not seriously injure the visual and residential amenities of the area, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 **Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority
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	<p>prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, proposals for increased on-site attenuation in accordance with the <i>Greater Dublin Regional Code of Practice for Drainage Works</i>, shall be submitted to, and agreed in writing with, the planning authority.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development, including external lighting throughout the development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of visual and residential amenities.</p>
5.	<p>(a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs and car parking bay sizes shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii within the development shall be in accordance with the guidance provided in the National Cycle Manual.</p>



	<p>(b) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.</p> <p>Revised drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interests of pedestrian, cyclist and traffic safety.</p>
6.	<p>Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity</p>
7.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
8.	<p>The developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement of development. A practical completion certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.</p> <p><b>Reason:</b> To ensure full and verifiable implementation of the approved landscape design.</p>

9.	<p>The car parking areas shall be provided with electric connections to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>
10.	<p>Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
11.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p>

	<p><b>Reason:</b> In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
12.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
13.	<p>Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority full details of the proposed public lighting, including the lighting levels within open areas of the development.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
14.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and 3 (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.</p>

15.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
16.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

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Caryn Coogan  
Planning Inspector

12<sup>th</sup> of October 2021