



An
Bord
Pleanála

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

Inspector's Report ABP-309836-21

Strategic Housing Development

241 apartments and associated site works.

Location

Lands North of Stocking Avenue,
Stocking Avenue, Woodstown, Dublin
16.
(www.whitepineseastshd.ie)

Planning Authority

South Dublin County Council

Applicant

Ardstone Homes Limited

Prescribed Bodies

1. Irish Water
2. The Department of Culture, Heritage and the Gaeltacht
3. The Heritage Council
4. An Taisce

5. Transport Infrastructure Ireland
6. National Transport Authority
7. South Dublin Childcare Committee

Observer(s)

Alan Edge
Ballyboden Tidy Towns Group
(Marston Planning)
Sean Crowe
White Pines North Residents Group
(Ciaran Murray)

Date of Site Inspection

21 June 2021.

Inspector

Stephen Rhys Thomas

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1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The application was made Ardstone Homes Limited and received by the Board on 30 March 2021.

2.0 Site Location and Description

- 2.1. The subject site is a greenfield site located in south west Dublin. It is bounded to the north by the M50, to the west by the recently completed and mostly occupied White Pines Housing Estate, to the south by Stocking Avenue and to the west by Green Acres House. The site can be accessed via Stocking Avenue, which is a major road serving new residential areas south of Woodstown Village. The site is located within an area characterised primarily by new residential developments in an emerging neighbourhood. The surrounding area has developed in stages with White Pines being the most recent iteration in the development of the area. A new 'Village Centre' and apartment complex is currently under construction at the junction of White Pines Park with Stocking Avenue, roughly 100 metres to the west of the subject site. Interspersed between the large housing estates of Stocking Wood Heath, Stocking Well and Woodstown Abbey are very large and well maintained open spaces with good pedestrian footpaths that link into community and commercial facilities at Woodstown Village and Ballycullen GAA pitches to the west. Primary schools and a secondary school are located further west along Killinenny Road. Knocklyon Village and Ballyboden Village and their services are located further north of the site across the M50.
- 2.2. The site comprises former agricultural fields separated by a hedge line with mature trees. The farmland is no longer productive and is quite overgrown. A large portion of the central area of the site is under hardstanding, now overgrown. A new 2 metre high concrete block wall diagonally bisects the site (east to west). Construction of White Pines Meadow to the west has been completed and these houses are now mostly occupied. White Pines is an estate of two storey houses (some detached, but for the most part semi-detached and terraced), the estate is well laid out with well maintained landscaping and numerous pedestrian walkways and occasional pocket

open spaces. Stocking Avenue is at a higher level than the M50 to the north and so the site slopes downwards from south to north. Stocking Avenue is of a standard 'distributor road' design with boundary walls, footpath, cycleway, wide grass verge planted with trees, bus tops and a two way carriageway. Stocking Avenue sweeps downwards after crossing the M50 in the east and has numerous roundabouts along its length. The M50 to the north is a six lane motorway with no hard shoulder and wide margins either side, a timber noise barrier has been constructed on both sides.

3.0 Proposed Strategic Housing Development

3.1. The proposed development on a site of 2.98 hectares will consist of 241 residential units in five apartment blocks and three duplex blocks, the detail is as follows:

| Parameter | Site Proposal |
|----------------------------------|--|
| Application Site | 2.98 hectares |
| No. of Units | 241 units (apartments and duplex units) |
| Density | 80 units per hectare |
| Dual Aspect | 133 units (55%) |
| Other Uses | Community space – 552 sqm |
| Private Communal Space | 782 sqm |
| Public Open Space | 13,347 sqm – 45% of site area. |
| Residential Amenity Space | 171 sqm |
| Height | 3-6 storeys |
| Parking | 204 surface car spaces 422 bicycle spaces |
| Vehicular Access | Stocking Avenue and from White Pines North. |
| Part V | 22 (two bed units) |

Housing Mix

| Unit Type | 1 bed | 2 bed | Total |
|------------|-------|-------|-------|
| Apartments | 93 | 148 | 241 |
| % of Total | 39% | 61% | 100% |

- The main vehicular access to the scheme will be from Stocking Avenue, with a second vehicular entrance from White Pines Meadow to the north west of the site.
- One single storey plant room, three ESB sub-stations, provision of public and private open space including hard and soft landscaping.
- Permission is also sought to omit a childcare facility measuring 364.8 sqm that was approved under South Dublin County Council File Ref. SD14A/0222.

4.0 Planning History

4.1. Site history (overlap)

- 4.1.1. SDCC Ref. SD14A/0222 (and subsequent amendments) - Lands at Stocking Vale, Stocking Avenue, Rathfarnham, Dublin 16 Planning permission was granted by SDCC in March 2015 for a 10-year permission for the construction of 164 houses, 8 apartments and 1 creche (364.8sq.m). In total 172 no. dwellings were provided. I note that the red line boundary of the above site overlaps with the red line boundary of this current pre-application site and it is proposed to omit the crèche from the above proposal.
- 4.1.2. SDCC Ref. SD04A/0393/ ABP Ref. PL06S.212191 - Cottages, Woodtown, Stocking Lane, Dublin 16 On lands comprising an area of approximately 22.97 ha (including part of the site subject of this pre-application). Permission granted by SDCC for 10 year permission for development comprising residential, crèche, retail, office and public house use including inter alia 793 dwellings. There was a First Party Appeal against Conditions. APB granted with broadly similar conditions. This permission

was subject to additional amendment applications which relate to the individual sites which are detailed in the submitted Planning Report.

4.2. **Other relevant applications in the vicinity**

- 4.2.1. ABP reference number ABP-310398-21, 114 Build To Rent apartments and associated site works. Decision due by 21 September 2021.
- 4.2.2. SDCC Ref. SD19A/0345 - Lands south of Stocking Avenue, Woodtown, Dublin 16 Planning permission was granted in February 2020 for the construction of a neighbourhood centre comprising: a single storey convenience retail unit (c. 1,479sq.m GPA); a three storey building (c.577sq.m. GPA) comprising a creche at ground, first and second floor levels. The grant of permission omitted a community facility and extended the creche to the second floor level.

5.0 **Section 5 Pre Application Consultation**

- 5.1. A pre-application consultation with representatives from An Bord Pleanála, the applicants and the planning authority took place on 9 September 2020 in respect of a proposed development of 359 build to rent units (3 houses and 356 apartments). A Notice of Pre-Application Consultation Opinion issued within the required period, reference number ABP-307307-20. An Bord Pleanála issued notification that, it was of the opinion, the documents submitted with the request to enter into consultations, required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development. The following is a brief synopsis of the issues noted in the Opinion that needed to be addressed:

Development Strategy including Height and Density – revisions concerning the height and density on site, having regard to national, regional and local policy, including, but not limited to, the provisions of the ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)’, ‘Urban Development and Building Heights - Guidelines for Planning Authorities’ and ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’.

5.2. The prospective applicant was advised that the following specific information was required with any application for permission:

1. Compliance (or not) with the Phasing Strategy as set out in the Ballycullen – Oldcourt Local Area Plan, 2014 (as amended 2017).
2. A Housing Quality Assessment (HQA) with emphasis on dual aspect design.
3. Proposals for the management and operation of support facilities, services and amenities for residents.
4. Additional justification and/or revised proposals for the level of car parking proposed, having regard to inter alia the provisions of SPPR 8 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities.
5. Additional details and/or revised proposals in relation to Transport issues, having regard to comments contained within the Planning Authority's submission on this pre-application (dated 06th July 2020) in relation to gradients, compliance with DMURS, cycleway provision, EV parking, fire tender and bin lorry access routes, refuse management, public lighting and the provision of a Construction Management Plan.
6. Additional details and/or revised proposals in relation to the proposed community centre, having regard to the quantum of floor area proposed and viability.
7. A report that addresses issues of residential amenity (both existing residents of nearby development and future occupants), specifically with regards to daylight/sunlight analysis, overlooking, overshadowing, visual impact and noise.
8. Landscaping details having regard to comments contained within the Planning Authority's submission on this pre-application (dated 06th July 2020) namely in relation to green infrastructure, SuDS, protection of retained trees and additional details in relation to landscaping proposals.
9. Confirmation that Irish Water can accommodate the proposed development, having regard to Irish Water's submission on this pre-application (dated 9th July 2020), which states inter alia that upgrade works to the Irish Water Network are required, namely the completion of the Ballycullen/Oldcourt LNRP.

10. Additional details and/or revised proposals in relation to the issue of surface water/flooding having regard to comments contained within the Planning Authority's submission on this pre-application (dated 06th July 2020).

11. Additional CGIs/visualisations/3D modelling including additional views from the White Pines development to the west of the proposed development.

12. A report that specifically addresses the proposed materials and finishes of buildings, landscaped areas and any screening/boundary treatment. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinct character for the development.

13. A plan of the proposed open space within the site clearly delineating public, communal and private spaces.

14. A masterplan document outlining how this site could interact with any future proposals on the Green Acres site to the east of the proposal site.

15. Waste Management Details.

16. Site Specific Construction and Demolition Waste Management Plan

5.3. Finally, a list of authorities that should be notified in the event of the making of an application were advised to the applicant and included:

1. Irish Water

2. The Department of Culture, Heritage and the Gaeltacht

3. The Heritage Council

4. An Taisce

5. Transport Infrastructure Ireland

6. National Transport Authority

7. South Dublin Childcare Committee

5.4. **Applicant's Statement**

5.4.1. Under section 6(7) of the Act of 2016, the Board issued a notice to the prospective applicant of its opinion that the documents enclosed with the request for pre-application consultations required further consideration and amendment in order to

constitute a reasonable basis for an application for permission, the application includes a statement of response to the pre-application consultation (Response to An Bord Pleanála Opinion), as provided for under section 8(1)(iv) of the Act of 2016, that may be summarised as follows:

5.4.2. Development Strategy including Height and Density - the density and height of the proposed development has been reduced. The overall height of the proposed development has been reduced from eight storeys to a maximum height of six storeys. The proposed density for the site alone amounts to 81 units per hectare, but when taken with the rest of White Pines, a residential density of 46.5 units per hectare is achieved. These amendments have been as a result of the following:

- Block A has been reduced in height by one storey, down to five storeys and reduce by nine units.
- Block B has been reduced in height by two storeys to four storeys and the number of units reduced by 64 units because of a change in footprint.
- Block C remains at five storeys, but the footprint and position has been changed that results in a reduction of 37 units.
- The units proposed to the western boundary of the site are now three blocks of three storey duplex units, providing 28 two bed apartments and positioned further away from the boundary. This protects the residential amenities of the existing residential units at White Pines North in addition to no windows at second floor level.
- The community centre space of 552 sqm is now provided within the ground floor of Block A and will be provided to satisfy a phasing requirement of the Ballycullen Oldcourt Local Area Plan (BOLAP) 2014.
- The units are now for private sale and not build to rent.

5.5. Applicant's Material Contravention Statement

5.5.1. A Material Contravention Statement has been prepared that sets out the rationale as to why the development could be permitted even when the proposal would represent a material contravention of the Building Height, Density, Dwelling Mix, Separation

Distances and Phasing Requirement objectives of the South Dublin County Council Development Plan (SDCCDP) 2016 - 2022 and the Ballycullen - Oldcourt Local Area Plan (BOLAP) 2014 Extended.

Building Height

The proposed development provides five apartment blocks ranging in height from 4 to 6 storeys and three 3 storey duplex buildings. This could materially contravene Policy H9 Objective 4 of the SDCCDP 2016-22, and Objective LUD8 of the BOLAP 2014, that state:

“Policy H9 Objective 4: To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use Zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme”.

“BOLAP 2014 Objective LUD8 Development shall be no more than one storey at street level on the Upper Slope Lands, no more than two storeys at street level on the Mid Slope Lands and no more than three storeys on the Lower Slope Lands. New dwellings backing onto or adjacent to existing single storey dwellings should be no more than two storeys.”

The proposed development is not located in strategic and landmark location in a Town Centre, Mixed Use Zone or Strategic Development Zone, at six storeys the tallest building would contravene the five storey height limit. In addition the development includes heights in excess of one storey at street level on the lands designated as ‘Upper Slope’ and heights in excess of two storeys at street level on lands designated as ‘Mid Slope’ in the BOLAP 2014.

The proposed building heights are in accordance with national guidance, such as NPO 35 - “Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.”

Urban Development and Building Heights Guidelines for Planning Authorities (2018), SPPR 1 seeks to identify where taller buildings could be located and avoid blanket numerical limitations on building height. The Height Guidelines also set out a number of criteria to be assessed under section 3.2.

SPPR 1 (Mix) of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) seeks a more balanced mix of units, houses and apartments.

SPPR 4 looks to achieve a greater mix of building heights and typologies in planning for the future development of suburban locations.

Section 5.1 of the applicant's material contravention statement sets out the design rationale for the building heights proposed. The overall design of the apartments and duplex units is to ensure good residential amenities for future occupants. The visual impact of the development has been assessed as part of the EIAR, no impacts found. The site can accommodate up to six storeys. Landscape provision is generous (38% of the site), the site can absorb the heights proposed. The site layout has been designed against the 12 criteria of the Urban Design Manual: A Best Practice Guide (2009), comparisons are made with similar development close by and photomontage images demonstrate visual acceptability.

Density

A residential density of 81 dwellings per hectare would contravene:

“SDCCDP 2016-22 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.” And consequently BOLAP (2014), LUD1, LUD5, LUD6 and LUD7, from 32-38 dwellings per hectare to 12 dwellings per hectare.

Section 5.2 of the applicant's material contravention statement sets out the design rationale for the higher residential densities proposed. Firstly the principal of graduating densities has been followed in the layout, where greater density is located downslope. If the proposed development is combined with the wider White Pines area, then density would be closer to 43 dwellings per hectare. However, the proposed density is in line with national guidance, such as Project Ireland: National Planning Framework 2040 (2018), Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019), Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) and Urban Development and Building Heights, Guidelines for Planning Authorities (2018). As such, the policies and provisions set out in the BOLAP (2014), no longer align with

the provisions of the National Planning Framework, the National Planning Guidelines nor South Dublin County Council's own Development Plan (2016-22).

The Scholarstown Road SHD (ABP-305878-19 Granted March 2020) was approved with a residential density of c.110 units per ha. The Edmonstown Road SHD (ABP-305946-19, granted February 2020) was approved with a residential density of c.147 units per ha. The justification for both residential densities was based on their proximity to a high frequency bus route, Dublin Bus Service 15 and 15B. These sites fall under the statutory definition of 'Central and/or Accessible' and/or 'Intermediate Urban' under the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018). The subject site is comparable to these two sites and should qualify for higher densities in line with government guidance and trends for sustainable residential developments.

Dwelling Mix

BOLAP 2014 Objective LUD3 states; "The permissible dwelling mix shall yield a minimum of 90% or more houses. Apartment and duplex units are not permissible on the Upper Slopes of the Plan Lands. Extensions of duration of permission should only be granted where development granted prior to the adoption of this Plan accords with this objective." In addition, LUD5 and LUD6 refer to housing typology. A dwelling mix of duplexes and apartments would contravene this objective.

No units are proposed on the upper slope and so no contravention of the LUD3, when combined with the wider area (White Pines Masterplan) the housing mix is appropriate and will provide a greater variety and choice for residents, within an area currently dominated by three-bed and four-bed detached and semi-detached housing. SPPR1 of the Apartment guidelines seeks for greater mix and that statutory plans can define mix but only after a Housing Need and Demand Assessment (HNDA).

Ballycullen Oldcourt Local Area Plan: Phasing Strategy

The Phasing Strategy of the BOLAP for the eastern side of the plan lands has four distinct phases set by the number of residential units provided. Each phase requires the commencement/provision of local infrastructure, key outcomes are set out in table 5.5 of the applicant's statement. The proposed development follows phasing requirements except for:

Phase 1 requires, in part; “upgrade of roundabout junction to four arm junction”.

- The proposed development at White Pines East SHD is considered to be within Phase 3 of the Eastern LAP lands. As such, the provision of the White Pines North (SDCC Ref. SD14A/0222, granted March 2015) and White Pines South (SDCC Ref. SD17A/0359/ SD17A/0443, granted February 2018) residential developments have been constructed in Phases 1 and 2 of the eastern planned lands, in contravention with the above requirement. It is further noted that planning permission for both developments was granted by SDCC.
- SDCC and recent traffic assessments conclude that a four arm junction, are no longer required.

Phase 2 requires; “Completion of the Neighbourhood and Community Centre to include at least 190 sq.m of community floorspace in addition to the minimum quantum set out under Phase One (at least 460 sq.m community floorspace total) and upgrade of roundabout junction to four arm junction with crossing facilities.”

- A 552 sqm Community Building space will be provided at the site’s entrance, on the Ground Floor of Block A.
- the Neighbourhood Centre, Community Centre and Retail space will all be in place in advance of occupation of the proposed development.

Phase Three requires, in part; “Completion of landscaping of Green Buffer with tracks and trails along southern boundary with mountains”

- While is noted that the LAP requires the provision of a ‘Green Buffer with tracks and trails along southern boundary with mountains’, it is considered that although sufficient space has been provided along the southern boundary of the White Pines Masterplan site for a Green Buffer with the mountains, it is not practical, or safe, to provide pedestrian links in this area at present nor is it part of the subject application’s lands. The proposed landscape masterplan is a better response to site conditions and extends existing landscape treatments.

Separation Distances

Three 3 storey duplex blocks and associated communal amenity space to the west of the site back onto the rear garden space of existing 2 storey residential units at White Pines North. A separation distance of 24 metres is maintained, however, the following objectives are relevant:

- Housing Policy 9, Residential Building Heights, of the SDCCDP 2016-22 that states; “It is the policy of the Council to support varied building heights across residential and mixed use areas in South Dublin County. H9.”
- Objective 3 of Policy 9 states; “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).”
- Section 11.2.7, Building Height, of the SDCCDP 2016-22 states; “The proximity of existing housing - new residential development that adjoins existing one and/or two storey housing (backs or sides onto or faces) shall be no more than two storeys in height, unless a separation distance of 35 metres or greater is achieved.”

The rear elevation of the proposed duplex units appear as ordinary two storey dwellings and would have the same effect upon existing two storey houses to the west. Though the three storey duplexes could materially contravene the relevant plan, the careful design of the rear elevations ensures that no adverse impacts result.

6.0 Relevant Planning Policy

6.1. National Policy

6.1.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Regulation of Commercial Institutional Investment in Housing - Guidelines for Planning Authorities (May 2021)

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the ‘Apartment Guidelines’).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, including the associated Urban Design Manual (2009) (the ‘Sustainable Residential Development Guidelines’).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Childcare Facilities – Guidelines for Planning Authorities (2001), and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme

Other relevant national guidelines include:

- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018.

6.2. **Project Ireland 2040 - National Planning Framework**

The National Planning Framework includes a specific Chapter, No. 6, entitled ‘People Homes and Communities’. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35 - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill

development schemes, area or site-base regeneration and increased building heights.

6.3. Regional Policy

Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES) 2019-2031

The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF), the ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region.

RPO 3.2 - Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO – 4.1 – Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.

RPO 4.2 – Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

The site lies within the Dublin Metropolitan Area (DMA) – The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin's sustainable growth.

Key Principles of the Metropolitan Area Strategic Plan include compact sustainable growth and accelerated housing delivery, integrated Transport and Land Use and alignment of Growth with enabling infrastructure.

6.4. Local Policy

6.4.1. South Dublin County Development Plan 2016-2022

The South Dublin County Development Plan is the statutory plan for the area. The site of proposed residential development is located within lands which are subject to the zoning objective, RES-N – 'To provide for New Residential Communities'. Under

this zoning objective the use class 'Residential' and a 'Community Centre' are permitted in principle.

Chapter 2 of the Plan outlines policies and objectives in relation to new housing and includes objectives relating to urban design, densities, building heights, mix of dwelling types and open space. In particular, section 2.2.2 of the South Dublin Development Plan sets out that 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. Policies H8 Objectives 1 and 2 promote higher densities at appropriate locations. Development Management Standards are included in Chapter 11.

The following policies are of particular relevance.

- CS2 Objective 6 – promote higher residential densities at appropriate locations, adjacent to town centres or high capacity public transport nodes (Luas/Rail);
- Policy H6 Sustainable Communities – support development of sustainable communities and ensure new housing development is carried out in accordance with Government Policy in relation to housing and residential communities;
- Policy H7 Urban Design in Residential Developments – ensure new residential development within the County is of high quality design and complies with Government guidance on design of sustainable residential development;
- Policy H10 Mix of Dwelling types – ensure wide variety of housing types, sizes and tenures;
- Policy H8 – residential densities – promote higher densities at appropriate locations;
- Housing Policy 9 – residential building height – seeks to support varied building heights across residential and mixed use area.
 - o H9 – Obj. 1 seeks to encourage varied building heights in new residential developments;
 - o H9 Obj. 2 - To ensure that higher buildings in established areas respect the surrounding context.

o H9 Obj. 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.

o H9 Obj. 4 – direct tall buildings that exceed 5 storeys in height to strategic and landmark locations in Town Centres, Mixed Use zones and SDZ's, subject to an approved LAP or Planning Scheme.

- Policy TM7 – Transport and Mobility – policy of Council to take a balanced approach to provision of car parking with aim of meeting the needs of businesses and communities whilst promoting a transition towards more sustainable forms of transportation. Number of supporting objectives (TM7 Obj.1) which seek to carefully consider the number of parking spaces provided to service needs of new development.

6.4.2. **Ballycullen – Oldcourt Local Area Plan (2014) Extended to June 2024**

All of the proposal site is located within the boundary of the Ballycullen – Oldcourt Local Area Plan, 2014 (as amended 2017). In 2019 this LAP was extended and will now expire on 2nd June 2024. The settlement strategy for the Ballycullen area is set out in Section 1 of the LAP and provides for the construction of approximately 1,600 additional dwellings (about 4,600 persons) at a range of densities appropriate to the area. Within the LAP, the subject site is zoned 'A11 To provide for new Residential Communities in accordance with Approved Area Plans'.

Section 6 of the Local Area Plan sets a Phasing Strategy. The Phasing Strategy only allows for the permissible quantum of development under each phase to commence construction after key outcomes have generally been achieved. For the purpose of the Phasing Strategy, the Plan Lands are divided into the east and west using the Ballycullen Road as the point of division. The subject site is located in the eastern side of the Plan Lands.

The LAP also sets out objectives in relation to things such as design, densities, mix, residential standards including open space provision and the provision of community

infrastructure. Site specific Objectives in the plan, as they relate to the current site, include the provision of an 'M50 Green Buffer & Knocklyon Park Extension'.

7.0 Observer Submissions

7.1. A total of four submissions were received from observers, two from individuals, one from a resident's group and one from a tidy towns group. The most common criticism related to issues around the contravention of the LAP, transport/traffic/access, community infrastructure, public open space and layout, excessive building height, overdevelopment, excessive residential density, impact on residential amenity and adequacy of reports/assessments submitted. In very broad terms, nearly all aspects of the development were criticised, a summary of issues raised can be made as follows:

7.2. Traffic and Transport

7.2.1. The site is not well located and transport options are limited to a single bus service or two more if BusConnects proceeds. Existing roads are already overrun with cars. The proposed development will encourage private car use, this is unsustainable. The site will have two vehicular access points and a possible third to lands to the east, the car parking arrangement is not appropriate and will lead to traffic conflicts. Not enough cycle parking spaces are provided.

7.2.2. The Transport Assessment Report (TAR) fails to account of all accidents that have occurred in the area. Traffic data is out of date and does not take into account recently completed housing, an example is the omission of White Pines North now at almost maximum occupation. The TAR is heavily criticised in terms of robustness and methodology, entire datasets are challenged and the report findings are all challenged. The location of the new vehicular entrance close to the roundabout will lead to accidents.

7.3. Building Height – the development plan limits height at this location, six storeys is too high at this hillside location. Three storey buildings are closer than 35 metres to existing dwellings. The proposed heights will contravene the LAP. The height of

buildings proposed will overshadow Green Acres house. The precedent of a seven storey building at Hunters Road, predates the LAP and so should be ignored.

- 7.4. Residential Density – the proposed density of over 80 units per hectare is in excess of that planned for in the development plan and LAP and will result in a contravention of those plans.
- 7.5. Dwelling Mix – the proposed development will not deliver the type and mix of dwellings that local plans aim for.
- 7.6. Open Space – the inclusion of existing public open space (White Pines North) in the proposed development is not appropriate. Given the slope and proximity to the M50, much of the proposed public open space will be unusable. The random location of a plant room/generator is queried. There is a lack of dedicated children's play space. The removal of trees on site is not acceptable. An attenuation basin (northern portion of the site) is not acceptable as usable open space.
- 7.7. Residential Amenity – some units are located close to the M50 and Stocking Avenue, road noise and fumes will be an issue. The position and design of some single aspect units is not satisfactory, with some overlooking Stocking Avenue.
- 7.8. Phasing – the phasing strategy of the LAP is not met.
- 7.9. Community Infrastructure – there are too few school places in the area to accommodate any more development. The applicant's assessment is flawed in relation to school places demand and does not take account of other large housing applications (SHD) in the area. The proposed development will not provide a creche and will rely on others to take on demand, this is unacceptable. The Childcare Demand Assessment prepared by the applicant is roundly challenged, assumptions are not accepted, analysis is lax and demographic trends are not representative.
- 7.10. Flooding – the Site Specific Flood Risk Assessment (FRA) fails to detail local flood events. White Pines North has been subject to flood events in recent months and a specialist company had to respond and unblock drains, this area cannot receive catchment of 2.98 Hectares that are the subject of the proposed development. There is uncertainty if the FRA on the SHD website is the same as that submitted with the application to the Board. An open drain is located on the site and no plans are made for dealing with surface water and this drain.

- 7.11. Sewage – there are problems downstream (Dodder Valley Sewer), the proposed development will make matters worse.
- 7.12. Archaeology – there should be a comprehensive archaeological survey of the site.
- 7.13. Ecology – the removal of mature trees and hedgerows will impact upon wildlife.
- 7.14. Documentation Inconsistencies – an Irish Water wayleave is shown intermittently on plans submitted, statutory notices do not refer to Woodstown, the number of cycle spaces differs and the biodiversity section of the EIAR refer to a total development of 359 units. It cannot be determined with certainty that the newspaper notice refers to all areas of the statutory plan where it is contravened.
- 7.15. Adequacy of Assessments – the robustness of the EIAR is questioned, the cumulative impact of the proposal was not assessed within the screening exercise. The Bat survey is outside of the optimal date for such work. The AA approach is questioned as a bird survey was not conducted and the site is close to Natura 2000 sites.
- 7.16. A Technical Note prepared by Martin Peters Associates Consulting Engineers provides an alternate Traffic and Transport consideration of the site.

8.0 Planning Authority Submission

- 8.1. The Chief Executive's report, in accordance with the requirements of section 8(5)(a) of the Act of 2016, was received by An Bord Pleanála on the 26 May 2021. The report states the nature of the proposed development, the site location and description, submissions received and details the relevant Development Plan and Local Area Plan policies and objectives. A summary of the views of elected members as expressed at the Rathfarnham Committee Meeting on 11 May 2021 is appended to the Chief Executive's Report and summarised below.
- The SHD process is a failed policy and should be cancelled.
 - The residential density of the scheme results in overdevelopment and is at variance with the LAP.
 - Concern expressed that the proposed development will become build to rent, as other Ardstone developments in the area have done.

- There is too much car parking proposed, traffic problems will be an issue.
- The site is not located close to high-capacity public transport systems.
- The overall design is bland, the height is a concern on sloped lands at the base of the Dublin Mountains.
- Public open space is taken from surrounding development.
- Existing sewers in the area are at capacity.
- There is a shortage of school places in the area and the omission of a crèche is problematic.
- There is no need for a community building.
- There are other SHD applications in the local area and little regard has been shown for planning.
- The Part V allocation should not be in one single block.
- How will the development impact upon neighbours, such as the traveller site to the east.

8.2. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) is summarised as follows.

Zoning and Council Policy - In the South Dublin County Development Plan (CDP) 2016-2022, the site is located on lands with the zoning Objective 'RES-N', 'to provide for new residential communities in accordance with approved area plans.'

Residential development is permitted in principle subject to being in accordance with approved area plans. The proposed community centre use is also permitted in principle.

All of the application site is located within the boundary of the Ballycullen – Oldcourt Local Area Plan, 2014 (as amended 2017) and meets the approved plan requirement.

Phasing and site-specific objectives within the Ballycullen-Oldcourt LAP – the subject proposal falls into Phase 3, key outcomes already delivered: neighbourhood centre (commenced not completed), roundabout upgrades and the community centre

will form part of the current application. The southern Green Buffer will not form part of this proposal and this is acceptable, given the design constraints, the northern landscape extension is a reasonable alternative. With regard to school provision, liaison between the PA and Department of Education will continue and so this is part of the planning process already in train. Given the community space proposed, the Planning Authority is satisfied that the phasing requirements for the east side of the LAP will not precluding permission.

However, there are other site specific objectives for the site contained in the LAP that have not been addressed:

- Objective SSP28 which concerns a green buffer along the boundary of the M50
- Objective SSP29 which concerns the enlargement of the existing ditch along the northern boundary with Knocklyon Park
- Objective SSP30 concerning tracks and trails
- Objective SSP31 concerning soft landscape mounding berms
- Objective SSP32 Development of the Knocklyon Park extension and upgrade of the existing roundabout.

Tenure – not build for rent, so therefore acceptable.

Residential Density - The proposed development contravenes the Local Area Plan and policy H8 of the CDP in relation to density. 81 units per hectare is not a sustainable density given the site context and because the site is in an area poorly served by public transport and not in close proximity to a major centre and averaging out the subject site across wider lands not accepted.

Under the 2020 Apartment Guidelines, higher densities are acceptable at 'Intermediate Urban Locations' and this site is not one of them, the site is removed from employment centres, leisure and the only public transport option is a single bus route (15b). Circular NRUP 02/2021 Residential Densities in Towns and Villages (April 2021) discusses the issue of density to provide clarity of interpretation and

application. The Circular advises planning authorities to apply a graduated, responsive and tailored approach to the assessment of residential densities in Peripheral and/or Less Accessible Urban Locations, as defined in the Apartment Guidelines. Section 5.11 of the Sustainable Residential Development Guidelines states that for Outer Suburban/'Greenfield', the density of development should be in the general range of 35-50 dwellings per hectare. Specific Planning Policy Requirement (SPPR) 4 of the Building Height Guidelines cross-references the application of residential density in relation to minimum densities and provides discretion in the assessment of residential density at the periphery of larger towns, with net residential densities below 35 dwellings per hectare permissible in certain cases. The LAP looks for net density in the range of 32-38 for this location. The applicant's material contravention statement in relation to LUD1 and LUD5 to LUD7 (inclusive) is noted. It is not agreed that the higher residential density can apply on this site, because a new neighbourhood centre will be constructed close by and reliance on the 15b bus route is not sustainable.

The density proposed is considered to be a material contravention of the LAP and CDP and should be refused.

Building Height – the LAP sets out appropriate land use policies for the area and is in accordance with SPPR 3 of the Building Height Guidelines. The proposed development will contravene Policy H9 objective 4 that directs buildings that exceed five storeys to strategic and landmark locations in Town Centres, Mixed Use zones and SDZs and subject to approved LAP or Planning Schemes. Objective BF8 of the LAP sets a limit of two storeys on the mid slope lands and three storeys on the lower slope lands. The site would not meet the development management criteria set out in the Building Height Guidelines. The building height proposed is considered to be a material contravention of the LAP and CDP and should be refused.

The duplex units in the west of the site would also fail to comply with the blanket requirement of Section 11.2.7 in relation to Building Height. The three storey buildings would be located only 24m from the existing two storey houses which is significantly below the 35m requirement. The PA accept that this would be contrary to the Building Height Guidelines.

Unit Mix – the provision of apartment units would materially contravene LUD3 of the LAP, that requires 90% houses at this location. The methodology of looking beyond the site to rationalise housing mix is not accepted and would only result in a 46% of apartments is still too high. A condition in relation to the Regulation of Commercial Institutional Investment in Housing Guidelines is recommended.

Community Use – welcomed by the PA.

School Provision - A Schools Demand Assessment has been submitted by the applicant, that meets LUD11 of the LAP. The Planning Authority will continue to liaise with the Department of Education and Skills to deliver schools on sites as the demand emerges. It is noted that the school provision in the area was planned based on the LAP densities and the widespread increasing of residential densities will cause additional demand.

Layout and Design

Layout – the proposal development deviates significantly from the carefully designed indicative layout illustrated in the LAP. The current proposal has too many surface car parking spaces that negatively impacts the layout, undercroft parking would be better. The site is sloped and there is concern about the prevalence of retaining walls. How the site would integrate with adjacent lands at Green Acres to the east should be explored.

Design – building design is acceptable.

Residential Amenity

Standard of Accommodation – acceptable on the whole, however, the impact of noise from the M50 has not been satisfactorily examined or mitigated against especially with regard to balcony spaces.

Dual Aspect/North Facing – it is stated that 55% of the units would be dual aspect. Some units would be single aspect but would have views north and west or north and east. However, some units such as A 1.01 and A 2.01 would have a view to the west out over the balcony, this view would be restricted due to the shape of the building, redesign required.

Public Open Space – though the amount of public open space would meet the requirements of the LAP, its usability is questioned. Some areas of communal

amenity space are queried especially with regard to management/maintenance (behind duplex blocks for example). Overlapping of existing public open space is not acceptable and should be clarified.

Overlooking - Separation distances of 22 metres are required between directly facing habitable room windows. Not achieved between the east and west elevations of Block A and B, Block C and D which would only be 12m, and Block D and E which would only be 13m.

Daylight/Sunlight – though a high compliance rate with BRE standards is achieved, some areas require greater consideration (north facing windows and impacts to Green Acres house).

Childcare Facilities – The findings and conclusions of the applicant's Childcare Demand Assessment are noted and broadly agreed with.

Part V – proposals noted and a condition suggested.

Parking and Access

Access and Roads Layout - vehicular and pedestrian access to the site is acceptable subject to some technical amendments.

Permeability – noted.

Transport – the proposed development would add demand for new bus services planned for in the wider area under BusConnects, namely Route A1 and Route 85 and will serve Ballycullen. Route A1 will run from Ballycullen to Beaumont while Route 85 will run from Tallaght to Parnell Square.

Car Parking – 0.8 car parking spaces per unit is noted and accepted, ducting shall be put in place for electric vehicle charging.

Bicycle Parking – 401 spaces and these should be covered, above development plan standards and acceptable.

Technical and standard comments are made with respect to bin storage, public lighting design, taking in charge and the requirement for a construction traffic management plan.

Public Realm – proposals are noted and welcomed, standard and technical conditions are recommended.

Water, Drainage and Flooding – the Site-Specific Flood Risk Assessment is noted and standard and technical conditions are recommended.

Ecology – the lack of bat roosts, but the probability of the lands used for foraging is noted, conditions are recommended.

Archaeology – standard condition recommended.

Appropriate Assessment and Environmental Impact Assessment – is a matter for the Board.

Other Issues – the initial stages of determining whether a tree on the site merits a Tree Preservation Order have been initiated with the Parks Department.

Conclusion

The proposed development would be a material contravention of the Ballycullen-Oldcourt Local Area Plan on the grounds of building height, density and unit mix. There are also concerns in relation to the usability of aspects of the open space, overlooking and the amount of car parking which would visually dominate the site. The following reasons for refusal are recommended:

1. The proposed development would materially contravene the Ballycullen-Oldcourt LAP and the South Dublin County Development Plan (2016-2022) in relation to building heights, density and dwelling mix. The Planning Authority considers that the Local Area Plan is an appropriate land use plan to facilitate the sustainable development of the area and the proposed development is contrary to the sustainable development of the area.

2. The proposal, by means of:

- the poor usability and accessibility of significant parts of the public open space,
- the lack of planning in relation to the site to the east which may preclude further residential development,
- the proximity of buildings to existing properties to the west,
- the proximity of the residential units to the M50 and the exposure to fumes and noise,

- the excessive amount of surface car parking that would dominate large parts of the site,
- the poor environment for sustainable modes,
- the use of retaining walls,
- and the proximity of habitable room windows to each other which would result in overlooking and loss of privacy,

would result in a poor overall standard of accommodation for prospective residents and a poor layout given the site context including topography and neighbouring sites. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Should permission be granted, the planning authority have recommended the attachment of 28 conditions, all of a standard and technical nature, except for condition 5 that requires some further road details.

8.3. **Departmental Reports (South Dublin County Council)**

Environmental Services Department:

Surface Water – No objection, subject to conditions.

Flood Risk – No objection, subject to conditions.

Delivery Planning Team – no objection

Housing – No objection, subject to conditions.

Public Realm – Conditions recommended.

Roads – No objection, subject to conditions.

9.0 **Prescribed Bodies**

- 9.1. The list of prescribed bodies, which the applicant is required to notify prior to making the SHD application to ABP, issued with the section 6(7) Opinion and included the following:

1. Irish Water
2. The Department of Culture, Heritage and the Gaeltacht
3. The Heritage Council
4. An Taisce
5. Transport Infrastructure Ireland
6. National Transport Authority
7. South Dublin Childcare Committee

9.2. The applicant notified the relevant prescribed bodies listed in the Board's section 6(7) opinion. The letters were sent on the 30 March 2021. A summary of those prescribed bodies that made a submission are included as follows:

- **Irish Water** – In order to accommodate the proposed connection of the development, upgrade works are required to the Irish Water network. An IW project is underway (Ballycullen/ Oldcourt Local Network Reinforcement Project (LNRP), this will provide the necessary upgrade and capacity to service the development. The works are scheduled to be completed by Q4 2021 (subject to change) and the proposed connection could be completed as soon as possibly practicable after this date. Standard conditions are recommended.
- **Transport Infrastructure Ireland (TII)** – they will not entertain any claims in relation to noise or vibration due to existing or proposed roads in the vicinity.
- **An Taisce** – a number of issues are raised, as follows:
 - Traffic – existing transport infrastructure in the area is already very poor and traffic congestion is a problem. Bus routes are do not have consistent bus lanes. The Traffic and Transport Assessment submitted with the application underplays the current situation. When combined with other large housing developments already permitted in the area, the traffic and transport situation will worsen.
 - Over-development – the proposed residential density is in excess of that planned for in the Ballycullen/Oldcourt LAP, the method of combining this application with existing development to bring down the

overall density to 44 units per hectare is questioned. In terms of building height, again the height cap of the LAP will be breached.

- Material Contravention – the applicant’s statement is inadequate, especially with regard to traffic and building height. In terms of section 3.2 of the Building Height Guidelines, the applicant does not recognise the transport deficiencies of the area and the proposed building heights of 5/6 storeys would not enhance the character and public realm of the area.
- Trees – a notable Weeping Ash should be retained if permission granted.

10.0 Assessment

10.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses on national policy, the relevant section 28 guidelines, the local statutory and non-statutory plans for the area. In addition, the assessment considers and addresses issues raised by all the observations on file, the contents of the Chief Executives Report received from the planning authority and the submissions made by the statutory consultees, under relevant headings. The assessment is therefore arranged as follows:

- Principle of Development
- Material Contravention
- Design and Layout
- Residential Amenity
- Visual Amenity
- Traffic and Transport
- Infrastructure
- Childcare facility

- Planning Authority's Decision
- Other Matters

10.2. Principle of Development

10.2.1. Zoning - The site is subject to zoning objective RES-N – 'To provide for New Residential Communities' in the South Dublin County Development Plan 2016-2022. The proposal to provide residential units, support facilities and a community use is appropriate. While I address issues of residential density, building height, mix of units and other matters relating to the proposed development strategy on the site in the following sections, I am satisfied that the principle of a residential and community use proposal is acceptable at this location.

10.3. Material Contravention

10.3.1. The applicant has prepared a material contravention statement that addresses the possibility that the proposed development could materially contravene the Building Height, Residential Density, Dwelling Mix, Separation Distances and Phasing Requirement objectives of the South Dublin County Council Development Plan (SDCCDP) 2016 - 2022 and the Ballycullen - Oldcourt Local Area Plan (BOLAP) 2014 Extended. I address each of these elements in the following sections of my report. Observers have also identified that the applicant has contravened the local statutory plan, and this has fed into the issues they have in relation to many aspects of the entire scheme. The planning authority declare that the phasing strategy of the LAP will not be affected by the proposed development and permission could be granted in that regard. However, the planning authority have concerns about numerous other objectives of the LAP and significant concerns over building height, density and dwelling mix. In relation to building height and the 35 metre separation distance between new and existing buildings, the planning authority do concede that this is a blanket height ban and would run counter to the Building Height Guidelines.

10.3.2. **Building Height** – the applicant recognises that the proposal for apartment buildings of two and up to six storeys could materially contravene the following objectives of the Development Plan and LAP as follows:

“Policy H9 Objective 4: To direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use Zones and

Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme”. SDCCDP 2016-2022

“BOLAP 2014 Objective LUD8 Development shall be no more than one storey at street level on the Upper Slope Lands, no more than two storeys at street level on the Mid Slope Lands and no more than three storeys on the Lower Slope Lands. New dwellings backing onto or adjacent to existing single storey dwellings should be no more than two storeys.”

10.3.3. The applicant cites the Building Height Guidelines and Sustainable Urban Housing Guidelines to provide the basis for increased height at this location and at variance with the local statutory plans. The planning authority disagree entirely with the applicant’s design rationale and state that the LAP was carefully prepared and published to deliver the right form and quantum of development at this particular part of the county at the foot of the Dublin Mountains. Local observers also think the heights contravene the local plan and are wrong for this location.

10.3.4. In terms of the form and scale of the development proposed I note that the Urban Development and Building Heights Guidelines link building height with achieving higher residential densities. This is clearly set out in a specific planning policy requirement (SPPR 4) as follows:

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;

10.3.5. The height guidelines observe that newer housing developments outside city and town centres and inner suburbs, i.e. the suburban edges of towns and cities, typically now include town-houses (2-3 storeys), duplexes (3-4 storeys) and apartments (4 storeys upwards). Such developments deliver medium densities, in the range of 35-50 dwellings per hectare net. Additionally, SPPR 4 of the Height Guidelines requires that in future residential development of greenfield or edge of town locations, planning authorities must secure the minimum residential densities for such locations

as set out in the Sustainable Residential Development in Urban Areas guidelines. The applicant notes that the site constraints concerning slope and a graduated density/height approach set out in the LAP go against national guidelines. Based on this assumption the application makes the case that it is appropriate to contravene the development plan in line with national guidance. Some local observers are not satisfied that it is appropriate to locate taller buildings on the site especially at the foot of the Dublin Mountains.

10.3.6. The building heights proposed by the applicant are not excessively tall, with Blocks A – E comprising a combination of two to six storeys and duplex units rising to three storeys. Blocks D and E are the tallest buildings proposed and are at the lowest and flattest section of the site, however, in detail:

Block A – four/five storeys, maximum height 16.4 metres.

Block B – two/four storeys, maximum height 13.6 metres

Block C - four/five storeys, maximum height 16.4 metres

Block D - five storeys, maximum height 16.2 metres

Block E - six storeys, maximum height 19.1 metres

Duplex units – three storeys, maximum height 10.2 metres

10.3.7. I note that section 3.0 of the Building Height Guidelines set out development management criteria in order to assess the appropriateness of taller buildings at a set location, section 3.2 of the guidelines refer. The following sections of my report assess the proposed development against these criteria as follows:

10.3.8. At the scale of the relevant city/town – the site is well served by pedestrian/cyclist connections to the wider area, there are many off road footpaths/trails through large areas of public open space. In addition, there is a frequent bus service (up to four services an hour) that runs past the site along Stocking Avenue towards the city centre through Rathfarnham, Terenure and Rathmines. The A1 spine/branch route of BusConnects may run nearby in the future. The taller elements of the scheme, up to six storeys are located at the northern end of the site. This location is at a much lower level and flatter section of the site and situated on an amenity corridor that provides direct routes to schools and leisure facilities. Blocks A, B and C range between two and five storeys, but are set into the slope to take account of changes

in level. There are no architecturally sensitive areas or protected landscapes in the immediate vicinity. The site has a flat/level section and a challenging topography at the southern section, but buildings have been graduated in height to accommodate this. The proposed development will make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of nearby development.

10.3.9. At the scale of district/ neighbourhood/ street – a new street network will be developed, and an improved public realm will result from the scheme. In design terms the overall layout, scale and design of the apartment buildings will not result in long, uninterrupted walls of building in the form of slab blocks. Instead, the design of the apartment buildings has been broken up and materials are well selected and appropriate. The urban design of the entire scheme is well considered and there are no flood risk issues as demonstrated by the findings of the FRA submitted with the application. Overall, the proposal makes a positive contribution to the improvement of legibility through the site and wider urban area. The proposal positively contributes to the mix of dwelling typologies available in the neighbourhood.

10.3.10. At the scale of the site/building - The form, massing and height of the taller elements have been designed to provide adequate levels of daylight and sunlight for future occupants and preserve and maintain existing levels of light to existing properties. This has been demonstrated in the Daylight/Sunlight and Overshadowing analysis carried out by the applicant and in accordance with BRE guidelines, this is examined in detail in the following sections of my report.

10.3.11. The applicant has also prepared specific assessments to support the proposals for taller elements at the western end of the site. These assessments include: an EIAR with relevant sections devoted to visual and residential amenity and an architectural design rationale. There are no air navigation concerns in the area, I note a telecommunications mast adjacent to the M50 and off the eastern tip of the site, but I have received no observations that concern this infrastructure. Having regard to the distance and relative heights, I am satisfied that this is not a material consideration such as would warrant a refusal or redesign of the proposed development. Section 15 of the EIAR that accompanies the application and deals with Material Assets and identifies no adverse impacts to telecommunications

infrastructure as a result of the development. I am satisfied that the location and design of the taller elements of the scheme, with some parts of up to six storeys in a single block is acceptable and accords with the requirements of SPPR 3 and crucially the wider strategic and national policy parameters set out in the National Planning Framework and guidelines.

10.3.12. **Residential Density** – The proposed development is for 241 dwelling units (apartments) over a site area of 2.98 hectares, this results in a gross density of 81 dwelling units per hectare. The difference between gross and net density on this site is minimal as there are no planned major/local distributor roads; primary schools, churches, local shopping etc; open spaces serving a wider area; or significant landscape buffer strips other than a narrow margin close to the M50. Observers are very concerned that the proposed density is too great and out of step with existing and permitted development in the area.

10.3.13. The LAP envisages a much lower density of development for these lands and identifies a graduated density approach to the site, with the highest range of 32-38 dwellings per hectare (net) on the lower portion of the site down to 12-18 dwellings per hectare on the upper slopes. The applicant has prepared a rationale with regards to the residential density assigned to the site, for example when the subject site is combined with the balance of White Pines development, then density would be closer to 43 dwellings per hectare. But overall, the applicant states that the proposed density as it stands in the LAP no longer aligns with the provisions of the National Planning Framework, the National Planning Guidelines nor South Dublin County Council's own Development Plan (2016-22). Furthermore, the applicant states that other SHD applications have been granted by the Board in the wider area, where densities have been higher.

10.3.14. The planning authority entirely disagree with the applicant's position and are satisfied that the current LAP sets out the correct density for the area and moreover, meets emerging national policy outlined by Circular NRUP 02/2021 that outlines some areas and their contexts are not all the same, and a flexible approach to density should be applied. I am cognisant of Circular Letter: NRUP 02/2021 that refers to the issuing of updated Section 28 guidelines that will address sustainable residential development in urban areas. Specifically, I am conscious that this is still emerging policy advice and that the circular letter is aimed towards addressing

residential density anomalies in the context of development at the edge of larger towns and within smaller towns and villages. The subject site is located at the edge of a city in the metropolitan area of Dublin. All the necessary infrastructure, such as schools, commercial facilities and public transport are already in place and so increased densities can and should be considered. In my view the LAP sets very low residential density expectations for this site and if followed would undermine the viability of existing and planned commercial and community infrastructure and limit the expansion and improvement of public transport. However, in considering an appropriate density, I have had regard to national policy (including CL: NRUP 02/2021), the local planning context and site's constraints, as well as its opportunities, and I am satisfied that there is adequate policy to allow flexibility in respect of the application of densities, and that the densities applied are appropriate to the site-specific circumstances.

10.3.15. The 2020 Apartment Guidelines define Intermediate Urban Locations that accommodate wholly apartment schemes of greater than 45 units per hectare as being sites within easy walking distance (i.e. up to 5 minutes or 400-500m) of reasonably frequent (min 15 minute peak hour frequency) urban bus services. This is such a site, with the 15b service passing along Stocking Avenue. The subject site, as it is configured and laid out, provides a residential density that sits comfortably around the range advised by the guidelines for a public transport corridor or an intermediate urban location. This is achieved through a variety of dwelling types, again as advised by the guidelines. From a town planning point of view, I am entirely satisfied that the proposed residential density of up to 81 dwelling units per hectare is appropriate at this location. Contrary to observer's views that such a density is so out of place with the existing character of the area, I am satisfied that the density is not out of character to the extent that it should cause any concern or significant impact on the existing character (with the area well placed to accommodate a mix of densities throughout) and at the same time, I am of the opinion that the proposal at the density of 81 uph makes the best use of zoned and serviced land.

10.3.16. **Dwelling Mix** – The applicant notes that BOLAP 2014 Objective LUD3 states; “The permissible dwelling mix shall yield a minimum of 90% or more houses. Apartment and duplex units are not permissible on the Upper Slopes of the Plan Lands. Extensions of duration of permission should only be granted where

development granted prior to the adoption of this Plan accords with this objective.” The applicant notes that such an objective requires the provision of a minimum of 90% or more houses, however, this arbitrary limit does not appear to be evidence based on any Housing Need and Demand Assessment. In addition, the applicant notes that LUD5 and LUD6 refer to housing typology and that a dwelling mix of duplexes and apartments would contravene this objective. In order to soften such a hard transition from one dwelling type to the next, the applicant sets out that when combined with the wider area of White Pines, the actual housing mix would be 47% houses and 53% apartments. The planning authority and observers do not accept such an approach and state that the proposed development would be contrary to the LAP.

10.3.17. The planning authority, however, are not so concerned about the impact of a material contravention of the LAP with regard to unit mix. Noting the general predominance of larger traditional residential units, and the need to ensure a mix of dwelling typologies, and in particular unit sizes, I do not consider that such a blanket ban or stringent restriction on apartments or duplexes would facilitate or deliver the smaller unit sizes needed to meet the changing household sizes that are emerging within the City and around the country. In this context I am guided by the Apartment Guidelines and advice in relation to meeting the need to facilitate a mix of apartment types that better reflects household demand and formation (SPPR 1 refers). In this respect the provision of apartment units between one and two bedrooms in format is entirely acceptable in an area where standard 3/4/5 bedroom houses predominate.

10.3.18. **Separation Distances** – Duplex units are proposed along the western boundary of the site and are located up to 24 metres from the back of existing two storey houses at White Pines Glade. The duplexes proposed appear as three storey to the front and two storey to the rear and reach a maximum height of 10.2 metres. The applicant identifies that the following objectives are relevant:

- Housing Policy 9, Residential Building Heights, of the SDCCDP 2016-22 that states; “It is the policy of the Council to support varied building heights across residential and mixed use areas in South Dublin County. H9.”
- Objective 3 of Policy 9 states; “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).”

- Section 11.2.7, Building Height, of the SDCCDP 2016-22 states; “The proximity of existing housing - new residential development that adjoins existing one and/or two storey housing (backs or sides onto or faces) shall be no more than two storeys in height, unless a separation distance of 35 metres or greater is achieved.”

10.3.19. The planning authority observe that these duplex units would fail to comply with the Development Plan requirements in relation to building height and the achievement of a 35 metre separation distance. When combined with restrictions on height, the proximity of three storeys next to two storey development would contravene local plans, the planning authority do however, acknowledge that such a 35 metre restriction would be considered a blanket ban related to height. I agree such a restriction on height is entirely arbitrary and without any basis in qualitative standards. I find the proposal layout adequately addresses the issue of separation distance and thus preserves residential amenities, whilst increasing residential densities.

10.3.20. **Phasing Requirements** – the applicant has set out in their Material Contravention Statement as to why the development can proceed even where it appears that it would contravene the phasing strategy in relation to the delivery of key outcomes and number of units. The applicant lists out that permitted and completed development has already contravened phasing objectives and were permitted by the planning authority. That phase 2 requirements for a neighbourhood centre will be met, as this facility is substantially complete. A community centre requirement under phase 2 will be met by 552 sqm of floor space proposed in the subject application. The upgrade to roundabouts, though not to four-arm signalised junctions, has been completed. Green buffers and mountain walks have been completed and planned for where feasible and safe. The planning authority accept the applicant’s rationale in relation to the phasing strategy of the LAP and accept the permission could be granted.

10.3.21. The phasing strategy of the LAP is complex, related to the delivery of residential units and key outcomes and split into two distinct areas, east and west. As the LAP states the purpose of phasing is to avoid a shortage of community facilities and amenities for residential communities and to ensure that such facilities and amenities are provided in a timely manner 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. The phasing strategy of the LAP has been developed to fit into the Core Strategy of the South Dublin County Council Development Plan, 2010 – 2016 and the provisions of the Regional Planning Guidelines for the Greater Dublin Area 2010 – 2022. I note that the LAP was extended on the 7th May 2019, until 2nd June 2024. The phasing metrics of the LAP now fall under the core strategy of the Development Plan (2016-2022) and this was amended by variation No. 4 that responded to population projection changes in National and Regional planning policy, namely the publication of the National Planning Framework (NPF) in 2018 and the Eastern and Midland Regional Assembly (EMRA) Regional Spatial and Economic Strategy (RSES) in 2019. Variation No.4 ensures consistency with the RSES, in particular the core strategy, and all other Regional Policy Objectives. I do not therefore, see any conflict or contravention of the core strategy in terms of the number of units to be provided in the LAP area.

10.3.22. As the development of the LAP lands moves into phase 3, the planning authority are satisfied that the proposal can proceed as it will deliver significant community space and complement existing public open spaces. I agree, the eastern portion of the LAP lands have developed in tandem with large areas of well maintained public open space and a local centre ('Village Centre') is currently under construction. The proposed development will deliver additional green buffers with tracks/trails and a community floorspace in excess of that thought achievable. I am satisfied that there is no material contravention of the phasing strategy of the LAP in terms of key outcomes described in the LAP. There is no evidence, from the Planning Authority submission or from elsewhere, that the core strategy is compromised by the quantum of development proposed, and as such I do not consider that the proposal represents a material contravention of the phasing strategy of the LAP and its connection with the Council's core strategy.

- 10.3.23. The applicant has identified five areas, where they believe that a material contravention of the development plan occurs, Building Height, Residential Density, Dwelling (unit) Mix, Separation Distances and the Ballycullen Oldcourt Local Area Plan: Phasing Strategy. The planning authority more or less agree with the approach and underline that breaches in relation to building height, residential density, dwelling mix and separation distances cannot be countenanced at this location. The planning authority set aside the phasing strategy issue, primarily because a community floor space of good scale will be delivered and amenity spaces will be expanded. Observers are not pleased with the overall proposal and its material contravention of the County Development Plan and Local Area Plan.
- 10.3.24. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.
- 10.3.25. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.
- 10.3.26. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.
- 10.3.27. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows:

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

10.3.28. Should the Board be minded to invoke Article 37(2)(b) in relation to this current proposal, I consider that they can do so, having regard to the relevant criteria contained therein, and as set out below.

10.3.29. In relation to section 37(2)(b)(i), the matter of strategic or national importance, the current application has been lodged under the Strategic Housing legislation and the proposal could therefore be considered to be strategic in nature. In addition, National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 prioritises the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. This is articulated through the following planning objectives:

- National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- 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.

10.3.30. In relation to section 37(2)(b)(ii), the matter of conflicting objectives in the development plan, I note that the County Development Plan and Ballycullen/Oldcourt Local Area Plan are unified in their approach to these lands, low residential

densities, low building heights and all planned to protect the landscape sensitivities of the Dublin Mountains beyond. However, the objectives of Housing Policy 8, to support higher densities, conflict with the limitations in height contained within Housing Policy 9 Objectives 3 and 4. While the objectives contained within Housing Policy 8 generally encourage higher densities and efficient use of lands, at appropriate locations, Policy 9 objective 3 seeks 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 of the County Development Plan); and Policy 9 objective 4 seeks to direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme. Given that higher densities are generally associated with increased heights, limiting new residential development to no more than two storeys in height unless a separation distance of 35 metres is maintained as outlined by Policy 9 Objective 3 and restricting developments that exceed 5 storeys to the limited number of sites that fulfil Policy 9 Objective 4, conflicts with the objective to maximise the most efficient use of remaining sites, which may also be suitable for higher densities. The statutory plan contains conflicting objectives for the area, I intend to invoke section 37(2)(b)(ii) of the Act in this instance.

10.3.31. In relation to section 37(2)(b)(iii), regional planning guidelines for the area, I note that the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to increase densities on appropriate sites within Dublin City and Suburbs.

10.3.32. In relation to Section 28 Guidelines, of particular relevance are the Urban Development and Building Heights 2018 that supports increased densities and taller buildings at appropriate locations, and I have assessed the proposal in relation to same, and found it compliant. The proposed development meets the development management criteria set out by section 3.2 of the Urban Development and Building Height Guidelines as required by SPPR 3. In terms of dwelling mix, the proposal meets the requirements set out in SPPR 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines

10.3.33. I also refer directly to the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) that mentions public transport corridors section 5.8 and section 2.12 of the Building Height Guidelines that point to intermediate urban locations where medium density residential development in excess of 45 residential units per hectare would be appropriate. The subject site fits well within these parameters and the proposed density of 81 units per hectare is entirely reasonable and in accordance with national guidelines. In this respect I am cognisant of Circular Letter: NRUP 02/2021 that refers to the issuing of updated Section 28 guidelines that will address sustainable residential development in urban areas. In addition, as I have already outlined in relation to density, Specific Planning Policy Requirement (SPPR 4) of the Height Guidelines requires adherence to the residential density targets for such areas as outlined above.

10.3.34. In relation to the pattern of development/permissions granted in the area since the adoption of the Development Plan, I am aware of recent planning permissions for strategic housing granted in the wider area. For example: Scholarstown Road SHD 500 metres to the north (ABP-305878-19 Granted March 2020) was approved with a height of 4 to 6 storeys (now under construction) and Edmonstown Road SHD a kilometre to the north east (ABP-305946-19 Granted February) was approved with a height of 2 to 7 storeys. Much closer to the subject site, I note that a neighbourhood centre and apartment building are under construction at present, planning authority reference SD19A/0345 refers. The current proposal is similar in density and height terms to recently permitted development and broadly meets with the planned objectives for the area and so section 37(2)(b)(iv) of the Act could be invoked in this instance.

10.3.35. Section 37(2)(b) of the 2000 Act sets out four criteria, to allow the Board to consider permitting a development that poses a material contravention of the operative plan other than in relation to the zoning of the land. Should the Board be minded to initiate the material contravention procedure, as it relates to Development Plan policies pertaining to building height and density, I consider that the provisions of Section 37(2)(b)(i), (ii), (iii) and (iv) have been met, and in this regard I consider that the Board could grant permission for the proposal.

10.3.36. I am of the opinion that given its zoning, the delivery of residential development on this well located and serviced site, in a compact form comprising

well-designed, higher density units comprising apartments would be consistent with policies and intended outcomes of current Government policy. The site is considered to be located in an accessible location; it is within easy walking distance of public transport in an existing serviced area. The proposal seeks to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community. The principle of higher residential densities and some taller buildings is considered acceptable. I consider that the proposal does not represent over-development of the site and is acceptable in principle on these lands.

10.4. Design and Layout

- 10.4.1. The applicant has proposed a residential scheme that departs markedly from that envisaged by the planning authority, the Ballycullen/Oldcourt LAP and local observers. The LAP planned for a low rise and low density layout of primarily conventional dwelling houses at this location. Since the production of the LAP, national guidance on residential density and residential building height has evolved and the County Development Plan has been varied to take account of population changes and regional guidelines. The planning authority are convinced that the existing LAP is still relevant and have recommended that permission be refused in relation to building heights, density and dwelling mix but also for a variety of layout, design and amenity shortfalls. Local observers echo the concerns of the planning authority and wish the development not to go ahead in its current format. The applicant has prepared a large volume of material that includes planning reports, drawings, architectural design statement, parking strategy, DMURS statement, landscape masterplan, an accessibility statement, daylight/sunlight report, computer generated images and photomontage images. All are sufficiently detailed to allow a complete assessment of the proposed layout and design of the overall scheme.
- 10.4.2. Layout - The proposed development comprises 241 apartment units accommodated in five blocks from two to six storeys in height (up to 19.1 metres) and three duplex units of three storeys in height (up to 10.2 metres). The three duplex units appear as two storey terraced houses from the rear and it is this elevation that faces across to the backs of existing houses at White Pines Glade, a separation distance between opposing first floor windows of 24 metres is maintained. This is a fairly conventional approach to 'backing' onto existing housing and is entirely appropriate in layout terms.

- 10.4.3. A new street cuts through the site and the five apartment blocks are set out along this to form a degree of enclosure and provide a sense of place. Whilst the five blocks address the street in a formal manner, the back portions of the blocks are given over to large areas of landscaped grounds. The two and four storey elevations of blocks A and B will be quite visible from Stocking Avenue but are set well enough back to allow proposed planting to provide a good degree of shelter and privacy. The site slopes downwards from Stocking Avenue at a high point of 115 metres above OD to 101 metres above OD at the boundary with the M50, this represents a 270 metre cross slope of some 14 metres. A significant amount of the site at the northern portion is flat and level, the upper portion to the south has a noticeable slope and it is here that apartment blocks A, B and C are designed to cut into the slope. I am satisfied that the overall heights achieved with blocks A, B and C and their stepped design is the best approach to this sloping portion of the site. This stepped design and the large degree of landscaping around each block will ensure that these three blocks will successfully integrate into the landscape at this location of the site.
- 10.4.4. Blocks D and E, are marginally more significant in their perception of scale as they rise up to five and six storeys but stand on level ground. However, these two blocks are located on the lowest and flattest portion of the site and are set between wide margins of open space to the north and south. I find that the overall site is logically laid out and the designer has dealt with the constraints of the site very well. Future connections to the east are well thought out and should these lands ever be developed a looping vehicular connection back to Stocking Avenue can be achieved. This view stands in contrast to the planning authority's sense that there is a lack of planning in relation to the site to the east which may preclude further residential development. I disagree, the site layout shows a direct connection with Stocking Lane and a standard condition that requires the elimination of a ransom strip can further address this point.
- 10.4.5. Car Parking Layout - A number of observers have criticised the layout, not least in terms of excessive height and density, but also in terms of car parking layout. The planning authority also criticise the car parking layout, that in their view dominates the overall layout to a degree that warrants permission to be refused. I assess the quantum of car parking within the Traffic and Transport section of my report. However, the quantum of car parking spaces, in this case 204 spaces, does have an

impact upon the overall layout. Unlike the planning authority, I do not favour the alternative of placing car parking spaces in some sort of undercroft arrangement, this would create more problems than it solves and potentially raise up apartments and remove their important connection to street level. The applicant has proposed perpendicular surface car parking, on both sides of the main street through the site. Car parking is broken up by landscape break-outs every six spaces or so, in an attempt to lessen the impact. Parking is also proposed along the landscape linear park to the north of the site and it is here where it is likely that car parking will become visually dominant.

10.4.6. The Design Manual for Urban Roads and Streets has a lot to say about car parking and the design of streets, section 4.4.9 of the manual refers. Specifically, DMURS advises that perpendicular parking should generally be restricted to one side of the street to encourage a greater sense of enclosure and ensure that parking does not dominate the streetscape. In addition, perpendicular spaces generally require a minimum carriageway width of 6m, which is generally too wide for Local streets. I agree, that this is the case with the proposed layout, car parking will dominate the scheme and this can be remedied by converting perpendicular spaces located in the linear open space at the north of the site to parallel parking spaces. This will result in an overall reduction of car parking spaces. Having observed how car parking already works out from a layout perspective at existing White Pines development, I can see that car parking does not dominate that scheme. However, I am satisfied that reductions in car parking and amendments to the layout will achieve the double aims of greater sustainability and a more visually satisfactory layout.

10.4.7. Open Space - In terms of the provision of open spaces throughout the proposed development, criticism has been levelled from observers and the planning authority. The planning authority raise technical queries about open space totals and adjacent sites, management of semi-private open space and general open space usability. Observers have raised issues about the usability of public open spaces generally, borrowing open space, the linear open spaces/wayleave area and proposed attenuation areas in open spaces.

10.4.8. It is clear from the landscape masterplan that there are two distinct areas of public open space that are level, usable and conventional in design terms. These spaces are located between blocks C, D and E and also to the north of block D and

incorporate some informal play areas. This makes sense as these are the areas of the site that are flat and well overlooking by proposed apartments units. The large area of public space to the north of Block D forms a concern for some observers, it has been borrowed from the White Pines Estate and an attenuation tank sits below it. At present this space is undeveloped, it is not currently in used for active amenity. Irrespective of whether it formed the open space allowance for the existing White Pines development, it will now be completed as public open space and available for all. The existence of an attenuation tank below it is also irrelevant, as the space will still function as a space that can be used throughout the year.

10.4.9. All the other public open spaces are really just wide margins of heavily landscaped areas up to the boundaries. This is not a negative viewpoint, quite the reverse, these areas are very similar to other developments in the area where I have observed a very successful integration of woodland walks interspersed with occasional play/fitness or seating areas. The semi-private amenity space to the rear of the duplex units is closed off at the north and south by a 1.2 metre high structured hedge and this is appropriate, a satisfactory management plan can control access to this area. I am entirely satisfied with the landscape masterplan and impressed by the landscape amenity provided for in the existing White Pines developments. I find the provision of public open space adequately balances active and passive amenity and contrary to the planning authority's opinion, I find the open space strategy to be usable and accessible to existing and future residents. I have no inclination to make amendments, nor am I concerned that the landscape plan will not be implemented to the same standards as that already provided for in the area.

10.4.10. The planning authority raise some concerns about retaining walls and this factor forms part of the second reason for refusal. Part of the site has a slope and it is possible that excessive amounts of retaining walls could be a problem, as can be seen elsewhere in earlier forms of development at places like Hunters Wood to the west. According to the Landscape Masterplan, the only location where retaining walls are highlighted is at the interface between Blocks A and B. This area is on a slope and characterised by a variety of pathways, steps and ramps. The drawings state that in order to disguise retaining walls, cladding will be used and extensive planting. Given the character of this particular and intimate space between buildings, I am not concerned that retaining walls would be out of place and in reality such

walls would merge into the background of the built form around. I see no reason to amend the design at this location let alone refuse permission on this basis.

10.4.11. Design – in this section I just assess the external design of the proposed apartments. Asides from the broad lack of support for the provision of any apartment blocks at this location neither the planning authority or observers especially pick out design or visual aesthetic issues. The overall design of blocks A-E is contemporary and modern and not too dissimilar to the existing character in the area and have much in common with other apartment/duplex units already constructed further west. The proposed finishes are a combination of selected brick, render finish and metal cladding. A lot like many of the houses in the area and the emerging Village Centre to the west, building finishes are durable, robust and attractive. The duplex units have been specially designed to fit in to this location. The rear elevation of the duplex units appears as two storey, whilst the front elevation is three storey and provides a step up to the four and five storeys of blocks C and D. I find the overall design of the apartment blocks and duplex blocks to be entirely satisfactory from an architectural design perspective, they are functional, simple buildings with subtle changes in materials to allow some visual interest.

10.4.12. I have already addressed the issue of building height under the Material Contravention section of my report. I concluded that the building heights are not overly excessive, they respond well to the landscape and will provide a new and varied urban extension to Stocking Avenue.

10.5. Residential Amenity

10.5.1. As with any residential scheme, large or small, the residential amenities offered to future occupants and the preservation and protection of existing residential amenities is a very strong consideration. In this context, I firstly assess the proposed development as it refers to future occupants, I apply the relevant standards as outlined in section 28 guidelines, specifically the Sustainable Urban Housing: Design Standards for New Apartments (2020). With respect to the residential amenity for future residents, the planning authority have significant concerns about the noise/fume impacts from the M50, dual aspect design and the proximity of some blocks. Secondly, I assess what impact, if any, the proposed development will have on the residential amenities currently enjoyed by those living in the vicinity. In this

regard, I note that local residents are more concerned about the scale of development and wider issues that in their opinion overdevelopment will bring than actual direct impacts to property. The applicant has submitted a variety of architectural drawings, sunlight/daylight analysis, computer generated images and photomontages. I am satisfied that an appropriate level of information has been submitted to address issues to do with residential amenity.

Proposed Residential Amenity Standards

- 10.5.2. The proposed development comprises 241 apartments and as such the Sustainable Urban Housing: Design Standards for New Apartments 2020 has a bearing on design and the minimum floor areas associated with the apartments. In this context, the guidelines set out Specific Planning Policy Requirements (SPPRs) that must be complied with. The apartments are arranged in eight distinct blocks, sitting on lands between Stocking Avenue and the M50 to the north. The building heights range between two and six storeys. The applicant states that all of the apartments exceed the minimum area standard. The applicant has also submitted an Accommodation Schedule, that outlines a full schedule of apartment sizes, that indicates proposed floor areas and required minima. In summary, it is stated that 130 units (54%) exceed the minimum floor area requirement by more than 10%, 133 units (55%) of units are described as dual aspect and balcony/patio areas meet minimum requirements.
- 10.5.3. Dwelling Mix - The proposed development provides 93 one bed units (39%) and 148 two bed units (61%). The amount of one bed units is significantly below the upward amount of 50% allowed for in the guidelines, with 39% of the total proposed development as one bed units. In my opinion the introduction of one and two bedroom units amidst the predominant three and four bedroom conventional house type already in the area will satisfy the desirability of providing for a range of dwelling types/sizes, having regard to the character of and existing mix of dwelling types in the area. Specific Planning Policy Requirement 1 is therefore met.
- 10.5.4. Apartment Design Standards - Under the Apartment Guidelines, the minimum gross floor area (GFA) for a 1 bedroom apartment is 45 sq.m, the standard for 2 bedroom apartment (3-person) is 63 sq.m, the standard for a 2 bedroom (four-person) apartment is 73 sq.m, while the minimum GFA for a 3 bedroom apartment is 90

sq.m, Appendix 1 *Required Minimum Floor Areas and Standards* of the Apartment Guidelines refer. The applicant states that this has been achieved in all cases and has been demonstrated in the Housing Quality Assessment (HQA) for apartments submitted with the application. Having reviewed the HQA, in terms of the robustness of this assessment and in the context of the Guidelines and associated standards, I would accept the applicant's analysis that the apartments are larger than the minimum standards by 10% amount in most of units provided, with all in excess of the minimum. I am therefore satisfied that the proposed apartments are therefore in excess of the minimum floor area standards (SPPR 3), with very few close to the minimum requirements. Given, that all apartments comprise floor areas in excess of the minimum, I am satisfied that the necessary standards have been achieved and exceeded. In broad terms, I am satisfied that the internal layout and floor areas of the apartments are satisfactory from a residential amenity perspective, SPPR 3 of the guidelines is met.

10.5.5. Dual Aspect Ratios – The applicant points out that 133 or 55% of units are dual aspect and that this exceeds the requirement for 50% at suburban or intermediate locations. The planning authority do not disagree but query the design of some units that have a single aspect such as A 1.01 and A 2.01, where the principal outlook is north and a westerly outlook is provided across a balcony. I have no such similar concerns and I would even consider that units like A 1.01 and A 2.01 could be likened to dual aspect units. The applicant has been cautious and included these 'special' types of units as single aspect rather than dual aspect and I accept this conservative approach. Given the scale and design of the apartment blocks proposed, I can see that it has been relatively easy to provide a good level of dual aspect units, this has been achieved and the orientation of all units is acceptable, with none suffering a suboptimal aspect, SPPR 4 of the guidelines is met.

10.5.6. Floor to ceiling height – sections show that the apartment block ground floor ceiling heights are 2.9 metres and upper floors are 2.675 metres, duplex units differ with 2.715 metres at ground floor and 2.685 metres and 2.55 metres at upper levels. This is acceptable and in accordance with SPPR 5 of the guidelines.

10.5.7. Lift and stair cores – no more than 10 units are served by a lift/stair core and this is acceptable, SPPR 6 of the guidelines is met.

- 10.5.8. Internal storage space is provided for all apartments at a minimum of 3 sqm and up to 7 sqm in some cases. Private amenity spaces exceed the minimum area required (5 sqm for a one-bed and 7 sqm for a two-bed unit). An internal and centralised amenity space of (171.5 sqm) has been provided within block C. The design takes into account security considerations with good levels of passive surveillance and accessibility to communal areas and amenity space. All of these features have been provided as part of the overall scheme and comply with the advice set out in sections 3 and 4 of the Apartment Guidelines.
- 10.5.9. Building Lifecycle Report - I note that the Apartment Guidelines, under section 6.13, require the preparation of a building lifecycle report regarding the long-term management and maintenance of apartments. Such a report has been supplied with the planning application and details long term maintenance and running costs. In addition, the guidelines remind developers of their obligations under the Multi-Unit Developments Act 2011, with reference to the ongoing costs that concern maintenance and management of apartments. A condition requiring the constitution of an owners' management company should be attached to any grant of permission.
- 10.5.10. The planning authority have raised an issue in relation to the proximity of apartment blocks, and the possibility of loss of privacy because habitable room windows would overlook. This forms a basis for the second reason for refusal, as it will result in a poor standard of accommodation. There are a number of areas where the gable of apartment blocks would be just over 11 metres, such as between Blocks C and D. Given the urban setting and the opportunities for dual aspect that have been taken advantage of by the designer, I am satisfied that a separation distance of over 11 metres is acceptable and will not compromise residential amenity for future occupants.
- 10.5.11. The planning authority have raised a concern about the proximity of residential units to the M50 and the exposure to fumes and noise. This concern forms an element of the second reason for refusal. Firstly, I note the proposed apartment blocks, specifically blocks D and E are situated up to 35 metres or further back from the M50. To the west, existing houses at the end of cul-de-sacs at White Pines (Grove, Heights, Court and Drive) all have windows that face onto and open out across the M50, approximately 25 metres to the north and across a landscape/amenity buffer. The separation distance between proposed apartments is

further back from the M50. However, balconies will open out to look across the M50 and certainly the noise associated with the motorway will be noticeable from such spaces. This is somewhat ameliorated by the generous proportions associated with each unit and can be further improved by ensuring that glazing is sufficiently soundproofed and allows for adequate ventilation. In addition, the provision of well designed public open spaces shielded by apartment blocks provide a good balance that outweighs the negative impact of the M50. On balance, the achievement of greater residential densities and given that existing houses are already located much close to the motorway, the proposed location and design of the apartments is acceptable and will not be adversely impacted upon.

Sunlight/Daylight Analysis – future occupants

10.5.12. Section 6.6 of the Apartment Guidelines and Section 3.2 criteria under the Building Height Guidelines (SPPR 3) refers to considerations on daylight and overshadowing. When taking into account sunlight and daylight analysis the guidelines refer to the Building Research Establishments (BRE) criteria for daylight, sunlight and overshadowing. The applicant has submitted a Daylight/Sunlight Report prepared by O'Connor Sutton Cronin Consulting Engineers, according to the report, the calculation methodology for daylight and sunlight is based on the British Research Establishments "Site Layout Planning for Daylight and Sunlight: A Good Practice Guide" by PJ Littlefair, 2011 Second Edition. The report sets out to record and analyses the following:

- The daylight levels within the living and bedroom areas of selected apartments, to give an indication of the expected daylight levels throughout the proposed development;
- The expected sunlight levels within the living areas and bedrooms within the proposed development;
- The quality of amenity space, being provided as part of the development, in relation to sunlight;
- Any potential daylight impact the proposed development may have on properties adjacent to the site.

10.5.13. The applicant's report concludes that across the entire development excellent levels of internal daylight are achieved, with a 98.6% compliance rate achieved (I detail in section **XX** the specific targets that are being referenced in terms of compliance). The majority of apartments not only meet but greatly exceed the ADF target set out. The report underlines that the BRE guide states:

“The advice given here is not mandatory and this document should not be seen as an instrument of planning policy. Its aim is to help rather than constrain the designer. Although it gives numerical guidelines these should be interpreted flexibly because natural lighting is only one of the many factors in site layout design.”

10.5.14. In this regard I also note that section 3.2 of the Building Height Guidelines allows for flexibility in the application of technical guidance, if compensatory design solutions are clearly identified and set out.

10.5.15. In relation to sunlight, the report shows compliance with BRE Guidelines receiving more than 2 hours of sunlight on more than half of the provided amenity spaces on March 21st. In addition, the annual probable sunlight hours assessment has shown that even though some windows are slightly under the BRE recommendations, acceptable levels of sunlight will still be achieved within the proposed development. Finally, the report shows that the proposed development has negligible daylight or overshadowing impact to surrounding properties.

10.5.16. The applicant explains that through the use of specially selected materials and finishes light is reflected throughout the development and that greenery in open spaces will improve the sense of light and brightness within the apartments. In addition, the glazing to wall ratio has been designed to maximise daylight and reduce solar gains, generous floor to ceiling heights also help.

10.5.17. In the preceding sections I have summarised the applicant's approach to sunlight/daylight. The applicant has utilised the advisory technical guidance such as the BRE documents and this is extremely useful to help determine the impacts of new developments, for future residents as well as existing. As we shall see they are an aid to assist with the evaluation of the daylighting and sunlighting of new developments. In the context of the proposed development and apartments in particular, daylighting is usually assessed by calculating the average daylight factor

(ADF), a measure of the amount of daylight in proposed rooms, and it is this test that the applicant's assessment relies on for the proposed apartments. Recommended ADFs (as noted in the BRE/BS guidance documents) are noted as 1% for bedrooms, 1.5% for living/dining rooms and 2% for kitchens, and where the rooms are combined e.g., dining-kitchen room the higher value should be applied. As already noted, the Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' describe recommended values to measure daylight, sunlight and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria. The BRE guidelines state in paragraph 1.6 that:

“Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”

The BRE guidelines state that in relation to daylight to existing buildings:

“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases the loss of light will be small...” (para. 2.2.4)

10.5.18. Where daylight, as measured by the %ADF is below the target provided for in the technical guidance, the guidance allows for changes to the design (providing extra windows, roof lights or light pipes, or changing room layout) to meet the guidelines, and it is further noted that amenity features such as balconies which may reduce ADF should still be facilitated and their impact on ADF noted. I note that the Building Height Guidelines, similar to the approach taken in the BRE/BS documents, also state that where a proposal may not be able to fully meet all the requirements of the daylight provisions, this can be acceptable, but that where the requirements are not met it must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, and justification for the proposal in this regard must also be set out. I am satisfied that the applicant has done this, and this is considered in my assessment below (paragraphs 10.5.20 to 10.5.28).

10.5.19. Finally, I note the evolving nature of technical guidance in relation to sunlight/daylight analysis from publications such as: UK code of practice for daylighting BS 8206-2:2008, Building Research Establishment's 'Site Layout

Planning for Daylight and Sunlight' (2nd edition) and now a British Standard EN 17037:2018 published May 2019 that deals exclusively with the design for and provision of daylight within commercial buildings and residential dwellings.

Ultimately, I point out that such technical advice provides the basis for design choices and the inclusion of compensatory design solutions. Such choices and opportunities to justify a design approach are also allowed for by section 28 guidance, such as the Building Height Guidelines. Finally, and of relevance, the County Development and LAP have not referenced any requirement to comply or have regard to any technical (BRE) guidance in relation to residential amenity.

10.5.20. The overall design of the apartments includes a kitchen area within living rooms and so the application has selected the lower value as a minimum target. The applicant's sunlight/daylight report notes the challenges involved in meeting the 2% ADF target for kitchens in apartment schemes and sets them out as follows:

- Amenity spaces: the guidance set out in the Design Standards for New Apartment document states that private amenity spaces shall be provided in the form of balconies at the upper levels. It is also stated that balconies are preferably accessed from living rooms. In order to achieve the 2% in living/kitchen spaces balcony spaces would need to be removed at the lower floors.
- Floor to ceiling height: in order to achieve an ADF of 2%, the floor to ceiling heights would have to be increased on all levels which would have a planning height impact.
- Solar gains: with the removal of the balconies, increased floor to ceiling height and extensive glazing area there is a risk of overheating within the apartments.

As a result, the applicant considers that the use of an ADF of 1.5% is the most appropriate, for the following reasons:

- Balcony amenity spaces can be provided in line with the Design Standards for New Apartments document.
- Floor to ceiling height are kept in line with Design Standards for New Apartments document.

- The proportion of glazing will still provide excellent daylighting and will avoid the risk of overheating due to balcony provision.

10.5.21. I tend to agree and see this approach as meeting the requirement of the Apartment Guidelines to include compensatory design solutions. Notwithstanding the general acceptability of 1.5% for shared kitchen/living areas, the applicant has through good design and siting, achieved 2% in a significant percentage of the combined living/dining-kitchen rooms.

10.5.22. In assessing ADFs within the apartments it is noted that not all apartments were assessed. I am satisfied that this is the norm/accepted practice within the industry. I note that the applicant has identified and assessed all worse-case apartments, and the assessment continued to upper levels to a point where one can be satisfied that all possible worst case/below agreed minimum ADF apartments have been identified. In addition, room depth and location of balconies also play an important role when it comes to daylight penetration within the room, therefore, a deep plan room with a balcony in front has also been considered a 'worst case' unit. I consider this to be a reasonable methodology and allows for a comprehensive analysis of the development.

10.5.23. The applicant, on this basis, tested all apartment units at ground floor level, and worst case scenario at upper levels. The report concludes that of the 630 rooms that comprise the development, only 9 fall slightly below the BRE requirements, therefore a 98.6% compliance rate is achieved across the development. To clarify, the nine rooms that are below BRE standards, fall below the 1.5% ADF target for a living room. I have interrogated the results published by the applicant and for the majority of the development good results are achieved and targets have been exceeded. There are locations and units where the 1.5% ADF is exceeded but falls slightly below 2% and this is also acceptable. In a very few cases results fall below 1.5% ADF and these are as follows:

- Block D – units D0.02, D0.03, D1.03, D2.03 and D3.03 (between 1.2% and 1.5% ADF), all of these units face south.
- Block E – units E0.05 to E4.05 (between 1.0% ADF), all of these units face south.

10.5.24. In terms of Block D, the fail rate is between 1.2% and 1.5% ADF. However, with respect to compensatory design solutions, I note that all of these units face south and have adequately scaled balconies. The applicant has clearly described how glazed areas have been maximised and the choice of materials and finishes has been designed to maximise reflected light. I also note that the southern elevation of block D faces public open space and that the separation distance between block D and C is more than 11 metres. I am satisfied that the impact upon these units in Block D is acceptable and results in an effective urban design and streetscape solution.

10.5.25. As for Block E, units E0.05 to E4.05 all have a particular design constraint, they are all located at the angle where the block turns. This results in a small surface area in the elevation to provide glazed areas and light penetration. Though the bedrooms associated with these units achieve acceptable levels of daylight, the living/kitchen areas struggle to pass 1.0% ADF. All of these units face south across public open space. I had considered what internal design changes could be incorporated to perhaps increase the ADF level to living/kitchen areas but this could result in internal floorspace changes that would not accord with the Apartment Guidelines. On balance I am satisfied that the orientation and outlook of these units is sufficient to compensate for lower ADF and that the visual interest associated with Block E as it turns a corner would result in a good urban design and streetscape solution.

10.5.26. The compensatory measures are clearly highlighted by the applicant, and it is obvious to me that large glazed areas and large balconies/terraces more than adequately compensate for kitchen areas that do not meet the advisory measure of 2.0% ADF. In this context, I remind the Board that section 1.6 of the BRE 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' allows for flexibility in design as natural lighting is just one factor in overall building design and layout. I am therefore satisfied that the compensatory design measures proposed by the applicant (large glazed areas, high floor to ceiling heights, careful material/building finish selection and orientation) more than compensates for the very small number of units (1.4% of apartments) across the proposed scheme that score below the guideline standard outlined for a living room or (5% of apartments) for a kitchen.

10.5.27. With that in mind, I am also guided by section 3.2 of the Building Height Guidelines, and I am satisfied that good compensatory design solutions have been proposed and clearly identified by the applicant in the drawings submitted with the application. These compensatory design solutions include: generous floor to ceiling heights, large balcony areas, large expanses of glazed walls/windows combined with favourable orientations and careful selection of materials/finishes; and so the penetration of light is satisfactory. In terms of meeting the objectives of good urban design the location and positioning of apartments ensures enlivened streets with good degrees of passive supervision and this is all clearly set out in the Architect's Design Statement. In my view the applicant has achieved tailored design choices that clearly show a balance between site specific constraints and the desirability of achieving wider planning objectives such as securing an effective urban design and streetscape solution. I see no advantage in omitting such a small number of units that do not meet the recommended % ADF target, when it is generally accepted as not being 100% achievable within apartment schemes, in particular for combined living room/kitchen. The Guidelines allow for flexibility for this reason. I would also note that such omissions would significantly adjust the architectural design of apartment blocks that have been directly conceived in response to achieving better urban design outcomes and undo careful compensatory design solutions such as large glazed sections, balcony areas and principal room orientation.

10.5.28. In terms of the availability of sunlight to living rooms (Sunlight APSH), results are determined by room orientation. The applicant states that in order to comply with the Apartment Guidelines and provide balconies to principal rooms, the provision of direct sunlight can be challenging and a relaxed benchmark has been set. Table 16 of the applicant's report summarises their results. When a relaxed benchmark (20% and 15%) is applied, 75% and 83% of the analysed windows achieve this alternative value, showing that acceptable levels of sunlight will be achieved across the development. The applicant attributes balcony projection as the leading issue in the provision of direct sunlight and has balanced the need for amenity over direct sunlight. I am satisfied that the proposed development will provide good levels of light to apartments and provide acceptable living environments for future occupants. Nearly all units passed, however, a small number of worst case scenario rooms received a marginal grade, or slightly less than the 2 hour requirement for sunlight

APSH (living rooms). These are, however, provided with good balcony spaces and this is important, I am satisfied that these living spaces will not be substandard as the balance all other units will receive good levels of sunlight.

Existing Residential Amenity

10.5.29. I note that a number of observers have raised general and broad concerns about the visual impact of the proposed apartments in terms of scale and height. The Landscape and Visual Impact Assessment contained in the EIAR deals with these matters in detail. In this section of my report I am more concerned about the more direct residential amenity issues such as overlooking, overshadowing and overbearing appearance that may affect the existing residential amenities as they are currently enjoyed by adjacent residents. Wider ranging concerns about overdevelopment, traffic and visual amenity are dealt with elsewhere in my assessment.

10.5.30. I have identified four areas where some impacts may be experienced by residents, and I assess if these impacts are bearable or not. I also note that the applicant's Daylight and Sunlight Report has identified sensitive receptors, figure 22 refers. The areas I have selected are:

- White Pines Glade – odd numbers 1- 31 inclusive.
- White Pines Meadow – numbers 1-6 inclusive.
- Green Acres House and Rostellan Mews.
- 1 Stocking Hill.

10.5.31. Taking White Pines Glade first, these houses are two storey terraced and semi-detached houses that back on to the subject site. The applicant has proposed a line of duplex units in three blocks to back up against the houses along White Pines Glade. A separation distance of 24 metres is maintained between opposing first floor windows. In addition, the design of the rear elevation is such that the duplex units appear as two storey dwellings from the rear. There is virtually no difference in ground levels between the proposed duplex units and existing houses to the west. Both sets of buildings tackle the slope in the same stepped manner. From the perspective of overlooking and overbearing appearance, I anticipate that these impacts will not occur due to the scale of the buildings proposed and the separation

distance between them. Apartment Block C will be situated some 65 metres further east, Block A is located over 45 metres to the south east, at a maximum height of 16.4 metres and positioned at an offset angle from White Pines Glade, I expect no adverse impacts here. Given the separation distance involved and the design of those units closest to the rear elevations of White Pines Glade, I anticipate no adverse impacts from overlooking or overbearing appearance.

10.5.32. White Pines Meadow – numbers 1-6 inclusive are located about 25 metres north of proposed duplex unit H3. This duplex unit is no more than three storeys in height and is located across a street and wide landscaped margin. Gable windows are proposed at ground and first floor and will provide dual aspect to a living room and bedroom. Given the separation distance involved and the scale and design of the unit proposed, I anticipate no adverse impacts to result from overlooking or overbearing appearance.

10.5.33. Green Acres House and Rostellan Mews are large dwellings situated on their own grounds to the east of the proposed development site and at a raised level. The principal outlook of each dwelling is north/south, however, some windows do overlook the site. Block C will be located up to 40 metres from the gable of Rostellan Mews, and 54 metres from Green Acres House. Block D will be located up to 54 metres from Rostellan Mews, and 50 metres from Green Acres House. Block E will be located up to 53 metres from Rostellan Mews, and 41 metres from Green Acres House. As it can be seen, the separation distances between properties are so large I think that it is unlikely that overlooking will be a significant impact. Overbearing appearance, especially from blocks D and E may be an issue if Green Acres House and Rostellan Mews were at the same level, they are not. Therefore, I anticipate that given the separation distances involved and the elevated nature of Green Acres House and Rostellan Mews that even though Blocks D and E rise to six storeys (19.1 metres) overbearing appearance will not be a significant or material issue.

10.5.34. Stocking Hill is a small low-density residential estate off Stocking Avenue to the east of the site. The closest units proposed will be located in block B, 65 metres to the west, a significant boundary of mature trees separates sites and these are proposed to be retained. Given the separation distance of 65 metres from the four storey Block B to 1 Stocking Hill, I anticipate no issues of overlooking or overbearing appearance.

10.5.35. To assess the impact on sunlight/daylight/overshadowing on White Pines Glade, White Pines Meadow, Green Acres House/Rostellan Mews and 1 Stocking Hill, the applicant has prepared a Daylight and Sunlight Report. This report primarily assesses the impact from the development on neighbouring residences in terms of Vertical Sky Component (VSC). Where a property falls outside the 25° line, this method was not utilised and nor was the Average Daylight Factor (ADF), as the potential impact was not considered to be significant or the assessment applicable. The properties at White Pines Glade are in close proximity to the 25° line, a VSC analysis was carried out to ascertain what impact is perceived. In order to analyse the VSC levels within the selected adjacent properties, 'worst case' windows located at lower level were modelled for each house being analysed. In all cases, the VSC results achieved for the adjacent properties is well in excess of 27%, with VSC results of around 33%. This is a figure one would expect given the scale of proposed development, its distance from existing property and the north easterly orientation. The applicant also carried out an overshadowing analysis and none of the property at White Pines Glade suffered.

10.5.36. In order to analyse the sunlight access within properties at White Pines Glade and other property highlighted in figure 22 of the applicant's report, the Annual Probable Sunlight Hours (APSH) was the method used. The applicant's report states that the sunlight within adjacent properties may be adversely affected if the centre of the window:

- Receives less than 25% of annual probable sunlight hours, or less than 5% of annual probable sunlight hours between September 21st and March 21st
- Receives less than 80% of its former sunlight hours during either period
- Has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours.

10.5.37. As all of the surrounding properties fall outside the 25° line, and all adjacent properties are a substantial distance from the proposed development, no analysis was carried out as it was reasonable to assume (having regard to BRE/BS guidance) that a negligible impact due to the proposed development was concluded. I am satisfied that there will be no adverse impact to sunlight/daylight currently received at each adjacent property and overshadowing will not occur.

10.5.38. The overall layout and scale of development proposed by the applicant has been designed to ensure that the residential amenities already enjoyed by neighbouring properties is protected. This, in my mind, has been successfully achieved and demonstrated by the generous separation distances between duplex units and especially apartment blocks. I anticipate no loss of residential amenity as a result of the development as proposed.

10.6. Visual Amenity

- 10.6.1. Many of the concerns expressed by observers, in including An Taisce refer to how the proposed development will appear in a landscape that is characterised by hills and the Dublin Mountains beyond. For many, it is the appearance of apartments of up to six storeys that will have a negative impact in the area and a departure from that planned for in the LAP. The planning authority are not too concerned about the visual impact of the development, but are strongly opposed to the development in terms of height, scale and quantum and the impact upon the objectives of the LAP. I have addressed these concerns in detail under the Material Contravention section of my report.
- 10.6.2. In terms of the visual impact of the development and its impact upon the amenities of the area, I note section 9.0 of the EIAR, contiguous elevation drawings and the various photomontage images prepared by the applicant. In particular, I note the locations chosen by the applicant identified in the Visual Impact Assessment and I find these views points to be representative of likely views around the site. On the whole, distant views will present an imperceptible impact on the landscape and this should be expected as the design of blocks have been stepped into the slope and taller elements have been located on the flattest and lowest section of the site.
- 10.6.3. Most views north of the M50 return imperceptible to slight/neutral impacts, and views over to the Dublin Mountains remain unchanged to any great degree. This leaves the visual impact as having the greatest element of perception being from around and close to the site. Again, this is not surprising as an entirely new form of development is planned in an area where two storey houses predominate. Though the impacts of the development have been classed as significant, I agree with the findings and see these as positive. Not only will new streets and new building forms create a sense of place, but over time the large amount of landscaping and planting will serve to bed-in

the development. The selection of materials is hard wearing and robust and so over time the proposed development will complement the landscape and result in an overall positive change. I am satisfied that the proposed development that has been carefully laid out to take advantage and compliment the landscape will result in a positive visual outcome for the area.

10.7. Traffic and Transport

- 10.7.1. The proposed development of 241 apartments will gain vehicular access directly from a new junction off Stocking Avenue and extend an existing access point from White Pines Meadow. The planning authority are broadly satisfied with these access arrangements and recommend some technical adjustments should permission be granted. Observers are not at all satisfied with the proposed access arrangements and a technical critique of the Traffic and Transport Assessment has been prepared by Martin Peters Associates Consulting Engineers and submitted by Ballyboden Tidy Towns Group.
- 10.7.2. On the one hand, the applicant's Traffic and Transport Assessment (TTA) describes the scope and methodology applied to the proposed development and its acceptability in traffic and transport terms. The TTA sets out the baseline scenario and highlights the benefits and availability of sustainable forms of transport, bus, cycling and walking. The TTA presents figures for trip generation and how they can be accommodated on the existing network, junction capacity is assessed and the construction phase will be managed by a Construction Traffic Management Plan. The direction of the applicant's TTA all leads to a conclusion that the impact on the surrounding road network will be minimal. In the applicant's opinion there are no traffic or transportation related reasons that should prevent the granting of planning permission for the proposed residential development.
- 10.7.3. On the other hand, many observers and a counter Traffic and Transport Considerations Assessment prepared for Ballyboden Tidy Towns Group, a village area to the east, disagree and fear that traffic congestion will worsen, and ad-hoc car parking will take place. There are also fears that the proposed development will generate predominantly car-borne journeys because there are no suitable alternative facilities within a safe walking or cycling distance. The two views concerning traffic and transport from the perspective of applicant and observer are completely and

diametrically opposed. However, I note that the planning authority are not so concerned about the proposed access points, the methodology behind the TTA or any other matter that cannot be addressed by condition.

- 10.7.4. From a technical and roads design perspective I am satisfied that the relevant guidelines have been applied, particularly with respect to DMURS. Where there is an exception is in relation to car parking where a back to back perpendicular arrangement has been proposed. I have already highlighted that the extent of car parking dominates the layout in some areas, particularly in relation to the public open space along the north of the site. I note that the car parking quantum has been questioned by observers and the planning authority. In my mind improvements to layout outweigh the possibility of future car parking issues. However, I am satisfied that a rigorous and well implemented Mobility Management Plan and Car Parking Strategy can foresee any issues and divert people to more sustainable modes of transport. In that context I am aware of the wide range of pedestrian and cyclist networks already in the area, the emerging village centre adjacent to White Pines and the frequent 15B bus service that passes the site. Therefore, in order to promote more sustainable forms of transport a reduction in car parking is appropriate when combined with alternatives. This is the case with this site and so I recommend the replacement of 48 perpendicular car parking spaces along the northern side of the access street in front of Blocks D and E, and their replacement with parallel car parking spaces.
- 10.7.5. On balance, the proposed development is located at a well-served suburban location close to a variety of amenities and facilities, such as schools, playing pitches and a new 'Village Centre' is on the way. Current public transport options are limited to a high frequency bus service without defined bus corridors but this may change in the future as BusConnects is developed. At present however, there are good cycle and pedestrian facilities in the area and the proposed development will add significant improvements to the public realm in this respect. It is inevitable that traffic in all forms will increase as more housing comes on stream. However, I am satisfied that most of the ingredients are in place to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport and this can be achieved by the implementation of the mobility management plan and car parking strategy submitted by the applicant.

10.8. Infrastructure

10.8.1. Drainage - The Infrastructure Design Report submitted with the application outlines in detail the surface water management strategy proposed for the site. An existing 375mm diameter surface water line is located along the site's northern boundary and it is into to this pipe that surface water from the site will discharge. A number of sustainable urban drainage system measures are proposed such as

- Surface water runoff from the site's road network will be directed to tree pits via conventional road gullies (with high level overflow to the piped surface water network). Surface water runoff from in curtilage parking areas will be captured by permeable paving.
- Surface water runoff from apartment roofs will be captured by green roofs (sedum blanket) prior to being routed to the piped surface water drainage network.
- Surface water runoff from the roofs of duplex's located along the site's western boundary will be routed to the proposed surface water pipe network via the porous aggregates beneath permeable paved driveways (providing an additional element of attenuation).

10.8.2. I note that an observer queried inconsistencies between the FRA and the Infrastructure Report submitted by the applicant. In particular, a question is raised as to why paragraphs in relation to SUDS methodologies and Surface Water Attenuation and Storage (sections 5.8.1 and 5.8.2 of the FRA) have been highlighted. I have cross checked the data presented in both the FRA and the Infrastructure Design Report and specifically in relation to items highlighted in the FRA. The figures used relate to a flow control device (Hydrobrake or equivalent), limiting surface water discharge from the site to 3.9 l/sec/ha, and this figure is also used throughout the Infrastructure Design Report. I am satisfied that this minor drafting oversight raises no material issues and has no material bearing in relation to the overall level of technical information submitted with the application.

10.8.3. In addition, the applicant has prepared a site specific Flood Risk Assessment, the site is located in flood zone C. The FRA concludes that the development is considered to have the required level of flood protection up to and including the 100 year return event and overland flow paths have been identified for pluvial flooding

exceeding the capacity of the surface water drainage network. The development will not result in an increased flood risk to surrounding properties but will reduce flood risk. I note that some observers have raised issues about localised flooding at White Pines, who accept that this was due to a lack of maintenance rather than site conditions. Lack of maintenance can bring about localised flooding events, however, the proposed development has been designed to feed into existing infrastructure at an acceptable rate. The issue of ongoing maintenance is a matter for a management company or, if taken in charge, the planning authority.

- 10.8.4. The planning authority concur with the surface water and flood risk strategy proposed by the applicant. Standard and technical conditions are recommended if permission is granted. I am satisfied that detailed aspects to do with surface water drainage can be managed by way of an appropriate condition.
- 10.8.5. Finally, the site can be facilitated by water services infrastructure and the planning authority and Irish Water have confirmed this. In this respect, IW have stated that a project is underway (Ballycullen/ Oldcourt Local Network Reinforcement Project (LNRP) and will be completed by the end of 2021. Once complete, the LNRP will provide the necessary upgrade and capacity to service the development. IW suggest that connection could occur as soon as the LNRP is finished. I am satisfied that there are no significant water services issues that cannot be addressed by an appropriate condition, however, it may be advisable to limit occupation of units until the LNRP is complete.

10.9. **Childcare facility**

- 10.9.1. The applicant has prepared a Childcare Demand Assessment in order to understand childcare capacity in the area and to provide a rationale for not providing a crèche in the current proposal. The report sets out what childcare is currently available in the area, the likely future demand, local permitted childcare facilities and what is currently under construction. The report concludes that there are more than 760 childcare spaces in the local area, with 7% capacity for new enrolments, 193 pre school children will potentially occupy the development but childcare uptake for any new facility is likely to amount to 48-89 children. The report concludes that this likely demand can be readily absorbed by existing and permitted childcare provision within

1km of the site, and most likely by a permitted 591 sqm facility (50 childcare spaces) under PA reference SD19A/0345 (amended by SD20A/0322).

10.9.2. I note that observers have called into question the findings of the applicant's Childcare Demand Assessment and maintain that existing facilities are oversubscribed. The planning authority are satisfied with the applicant's approach to childcare provision but query some of the data used and what impact recent closures due to the pandemic will have on supply. In accordance with the Apartment Guidelines, I find that the applicant has adequately described the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. I also note that one-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms. The proposed development comprises one and two bedroom units and so the demand for childcare places would be low, I accept the applicant's findings and the requirement to provide a childcare facility as part of this 241 unit scheme development is satisfactory. From a planning perspective, I note existing and permitted childcare facilities in the immediate and wider area, ongoing public health issues notwithstanding, these facilities remain permitted uses and can again operate subject to public health requirements.

10.10. Planning Authority's Decision

10.10.1. The planning authority is not satisfied that the proposed development is suitable at this location for a variety of reasons. These reasons centre on issues to do with the material contravention of the Development Plan/LAP and other matters to do with design and layout. I have set out why I think that the proposed development, at the building height, density and dwelling mix is acceptable at this location even though the proposal will materially contravene the Development Plan and Local Area Plan, section 10.3 Material Contravention refers. I am satisfied that the Board may grant permission for the development as it accords with numerous national guidelines building height, density and dwelling mix.

10.10.2. As for the other matters in relation to public open space, future development potential, proximity of buildings, the proximity of the M50, car parking, lack of sustainable transport modes, retaining walls and overlooking, I note the concerns.

However, in my opinion, the site is well laid out and respects its neighbours, so negative residential amenity issues arise. I agree that car parking dominates in places, and I have recommended that this aspect of the design be amended. The site is well located and an excellent location to increase residential density, maximise zoned and serviced land and offer a different format of dwelling mix. The approach to the sloping site is acceptable and retaining walls where they are used are acceptable. Proximity to the M50 is not unusual here and can be addressed by appropriate conditions in relation to windows, noise and ventilation. All of these matters are addressed in sections 10.3 Design and Layout, 10.4 Residential Amenity and 10.6 Traffic and Transport, of my assessment.

10.10.3. Though the planning authority's analysis is detailed and thoughtfully set out, I have examined the County Development Plan and Local Area Plan, their policies and objectives in the context of ministerial guidelines and consider that the proposed development achieves and exceeds the standards and advice as set out in the Urban Development and Building Heights guidelines, Design Standards for New Apartments Guidelines and the Sustainable Residential Developments in Urban Areas guidelines. I am satisfied that the Board may grant permission, even though the planning authority recommend otherwise, in that context I note the conditions that have been recommended by the planning authority.

10.11. Other Matters

10.11.1. Description of development – I note some minor inconsistencies and errors between the public notices and what is actually proposed. For example, the description of much of the ancillary works and services are duplicated, a second vehicular entrance is stated to be taken from the east of the site when in fact it will be from the north west of the site. I consider these inconsistencies to have no material bearing on the public's ability to understand the nature and scale of the development and participate in the planning process, or on my assessment. Notwithstanding these inconsistencies/errors, the development has been noticed by observers from the wider area and submissions made.

10.11.2. Social and Affordable Housing – the applicant is obliged under Part V provisions to indicate the provision of social housing, this they have done. Discussions, arrangements and agreements yet to be made with the Council are

ongoing. I concur with the planning authority's view in relation to social housing, and the matter can be settled through arrangements on foot of an appropriate and standard Part V condition.

10.11.3. SHD process and public participation - concerns have been raised outlining that the application process restricted the public from engaging fully in the project in a reasonable and meaningful manner. As part of this assessment I have had due regard to all observations received in considering the acceptability or otherwise of the various aspects of the proposals and public participation was facilitated in line with the regulatory requirements.

11.0 Environmental Impact Assessment

11.1. Environmental Impact Assessment Report

11.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed project. The development provides for 241 residential units and a community use on a site area of 2.98 ha. The site is located within the area of South Dublin County Council. A number of the topics and issues raised by observers that concern environmentally related matters have already been addressed in the planning assessment above, however, where relevant I have cross-referenced between sections to avoid unnecessary repetition.

11.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

i) Construction of more than 500 dwelling units

iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

11.1.3. The current proposal is an urban development project that would be in the built-up area of a city but not in a business district. It is within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, but not within the scale of development to require the submission of an environmental impact assessment. However, the applicant has outlined in section 1.3 of the EIAR, why there is a need to prepare and submit an EIAR. The applicant sets out that given the subject proposal, future proposals and recently permitted development, the number of dwellings would cumulatively amount to 659 dwelling units and so an EIAR has been submitted with this application.

11.1.4. The EIAR comprises a non-technical summary, a main volume and supporting appendices. Chapter 17 of the main volume provides a summary of the mitigation measures described throughout the EIAR. Table 1.3 and the introduction to each subsequent chapter describes the expertise of those involved in the preparation of the EIAR.

- 11.1.5. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.
- 11.1.6. I am satisfied that the information contained in the EIAR has been prepared by competent experts and complies with article 94 of the Planning and Development Regulations 2000, as amended. The EIAR would also comply with the provisions of Article 5 of the EIA Directive 2014. This EIA has had regard to the information submitted with the application, including the EIAR, and to the submissions received from the council, the prescribed bodies and members of the public which are summarised in sections 7, 8 and 9 of this report above. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions. I note that some observers have raised issues concerning the various findings and conclusions of the EIAR and that they are flawed, particularly with regard to the visual impacts of the development and presence of bat roost potential. However, for the purposes of EIA, I am satisfied that the EIAR is suitably robust and contains the relevant levels of information and this is demonstrated throughout my overall assessment.

11.2. **Vulnerability of Project to Major Accidents and/or Disaster**

- 11.2.1. The requirements of Article 3(2) of the Directive include the expected effect deriving from the vulnerability of the project to risks of major accidents and/or disaster that are relevant to the project concerned.
- 11.2.2. The EIAR addresses this issue under the operational phase (section 6.5.3) of Chapter 6 Population and Human Health (Volume I) of the EIAR. I note that the development site is not regulated or connected to or close to any site regulated under the Control of Major Accident Hazards Involving Dangerous Substances

Regulations i.e. SEVESO and so there is no potential for impacts from this source. There are no significant sources of pollution in the development with the potential to cause environmental or health effects. The EIAR states that there is a negligible risk of landslides occurring at the site and in the immediate vicinity due to the topography and soil profile of the site and surrounding areas. There is no history of seismic activity in the vicinity of the site. There are no active volcanoes in Ireland so there is no risk of volcanic activity.

11.2.3. Chapter 10: Hydrology including Flood Risk Assessment, Chapter 6 Population and Human Health and Chapter 11 Air Quality and Climatic Factors of the EIAR address the issue of flooding. The site is not at risk of flooding and the site is considered to have the required level of flood protection up to and including the 1% AEP flood event. Overland flow paths have been identified for pluvial flooding exceeding the capacity of the surface water drainage network. Adequate attenuation and drainage have been provided for to account for increased rainfall in future years. The proposed development is primarily residential in nature and will not require large scale quantities of hazardous materials or fuels. I am satisfied that the proposed use, i.e. residential, is unlikely to be a risk of itself. Having regard to the location of the site and the existing land use as well as the zoning of the site, I am satisfied that there are unlikely to be any effects deriving from major accidents and or disasters.

11.3. Alternatives

11.3.1. Article 5(1)(d) of the 2014 EIA Directive requires:

(d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment,

Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives':

2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

11.3.2. Chapter 4 of volume I of the EIAR provides a description of the main alternatives (6 alternate layouts in total) studied by the applicant and the reasons for their choice. The permissible uses on the site are prescribed by its zoning under the development plan. The alternatives that were considered were therefore largely restricted to variations in height, layout and building design and processes. In the prevailing circumstances the overall approach of the applicant was reasonable, and the requirements of the directive in this regard have been met.

11.4. **Consultations**

11.4.1. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

11.5. **Likely Significant Direct and Indirect Effects**

11.5.1. The likely significant indirect effects of the development are considered under the headings below which follow the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU:

- population and human health;
- biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- land, soil, water, air and climate;
- material assets, cultural heritage and the landscape; and
- the interaction between those factors

11.6. **Population and human health**

11.6.1. Population and Human Health is addressed in Chapter 6 of the EIAR. The methodology for assessment is described as well as the receiving environment. Recent economic and demographic trends are examined. The principal findings are that human population and job opportunities will increase as a result of the proposal. In terms of human health, the most likely impact will be the construction phase of the development and observers have concerns around construction phase traffic. However, given the control of activity on site by the developer, these can be avoided through the use of management measures as set out in the EIAR and in the

preliminary construction management plan submitted with the application, and the imposition of limits by conditions on any grant of permission. Subject to these measures the main significant direct and indirect effects of the proposed development on the environment are addressed, it is concluded that the proposed development would not be likely to have significant adverse effects on human health.

- 11.6.2. Other aspects of the development such as soil and land, water, air quality, noise/vibration, transportation and waste may lead to effects on the local population. In terms of noise/vibration, the occupation of the development would not give rise to any noise or vibration that would be likely to have a significant effect on human health or the population, as it would be a residential scheme that formed part of the built-up area of the emerging city. The impact of additional traffic on the noise levels and character of the surrounding road network would be insignificant having regard to the existing traffic levels on roads in the vicinity and the very marginal increase that would occur as a result of the proposed development. This is demonstrated by the Traffic and Transportation Assessment and Mobility Management Plan devised for the scheme that encourages the use of more sustainable forms of transport such as walking and cycling.
- 11.6.3. Observers have raised issues about the lack of school places and that community facilities are not needed. However, the increased population, provision of new open spaces and the demand for such facilities may lead to a further increase in provision. In addition, liaison between the planning authority and the Department of Education continually assesses the demand for school places. The provision of additional community infrastructure would further increase the positive effects of new facilities in the area for existing and new residents. In addition, new services give the potential for more people to come together, and this will further contribute to building the sense of place and community. However, pending the planning and delivery of these facilities in the future I am satisfied that the proposed development could proceed in their absence and that this would not result in a significant adverse impact.
- 11.6.4. I am satisfied that potential effects would be avoided, managed, and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

11.7. Biodiversity with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC

- 11.7.1. Chapter 7 of the EIAR addresses biodiversity. The biodiversity chapter details the methodology of the ecological assessment. It is noted that an Appropriate Assessment Screening Report was prepared as a standalone document. As assessed in section 12 of my report, the proposed development was considered in the context of any site designated under Directive 92/43/EEC or Directive 2009/147/EC.
- 11.7.2. A desk study was undertaken and included review of available ecological data. Ecological surveys were undertaken at the site, field surveys were carried out in November 2019 and April 2020. A Bat Survey was carried out on the 16 April 2020. The large majority of the site consists of former agricultural land which does not contribute to biodiversity to any substantial extent. The proposed development would result in the loss of this habitat, but this would not have a significant effect on the environment. The application site is open grassland with some hardstanding and treeline boundaries. There are no examples of habitats listed on Annex I of the Habitats Directive or records of rare or protected plants. High value treelines and individual mature trees provide habitat for a wide range of common plants and animals including breeding birds and bats although no bat roosts are present. A significant amount of trees on the eastern boundary and southwest of the site are planned for retention.
- 11.7.3. The removal of trees and hedgerows would diminish the extent to which wildlife corridors functioned across the site for mammals, and the extent to which the site supports foraging and commuting by bats. This extent of the potential impact would be reduced by the retention and augmentation of the landscaped buffer along the eastern side of the site. It would also be mitigated by the proposed linear landscaping and planting in the finished development and the design of public lighting in the proposed development. The residual impact on mammals and bats is likely to be minor and would not have a significant impact on the species concerned.
- 11.7.4. Section 9.4 of the EIAR describes measures to minimise the impact of the development on habitats and biodiversity that includes the preparation of a Preliminary Construction Management Plan, for the construction phase of

development. The proposed development would introduce areas of new planting, and the landscaping and planting proposals submitted with the proposed application are satisfactory in that context. Having regard to the foregoing, including the concerns raised by the observers, it is not likely that the proposed development would have significant effects on biodiversity. I have considered all of the written submissions made in relation to biodiversity. I am generally satisfied with regards the level of information before me in relation to biodiversity.

11.7.5. Given that the present condition of the site, devoid of any great concentrations of flora or fauna, I am satisfied that the development of the site and planned amenity planting provides greater benefits in terms of human health. I draw the Boards attention to the AA section of my report (section 12) where the potential impact of the proposed development on designated European sites in the area is discussed in greater detail.

11.8. Land, Soil and Geology

11.8.1. Chapter 8 of the EIAR deals with land, soil and geology (hydrogeology) and includes the findings of initial site investigations, as follows: 11 Dynamic Probes, 2 Infiltration Tests, 10 Trial Pits and 4 Window Samples.

11.8.2. The construction phase of development will require the removal of the existing topsoil layer, all stripped topsoil will be reused on site (incorporated into landscaping of back gardens, public open spaces and on the podium deck). Subsoil removal will be required for road bases, foundations and underground attenuation tanks. There is limited use for this amount of subsoil and so it will be exported off site (up to 7,500 cubic metres). Imported fill will amount to 10,000 cubic metres and will be granular in nature, used in a wide range of construction types.

11.8.3. The proposed development would result in the loss of almost 3 Hectares of un-productive agricultural land, zoned for residential purposes. Given the extent of such land that would remain available in the overall region, this is not considered to be a significant effect. The proposed development would not require substantial changes in the levels of site as the proposed apartments on sloped areas have been design to step in to the hill. Section 8.6 sets out standard soil handling methods to be employed during construction. It is therefore unlikely that the proposed development would have significant effects with respect to soil.

11.8.4. I have considered all of the written submissions made in relation to geology and soils. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of land and soils.

11.9. **Water**

11.9.1. Chapter 10 of the EIAR deals with Hydrology (Water). The site is predominantly farmland with some large areas of hardstanding and post construction activity. For most of the site, rainfall recharge percolates to ground through the soils. There are no streams or rivers on or adjacent to the site.

Surface Water and Flood Risk Assessment

11.9.2. The proposed surface water drainage network is designed with SUDS principles, forms a single catchments and discharges to an existing 375mm diameter surface water drain (which runs along the site's northern boundary) at a controlled greenfield runoff rate of 3.9 L/Sec/Ha.

11.9.3. The application was accompanied by a flood risk assessment that determined the site was located in flood zone C. The site was reviewed for pluvial flooding sources and any risk associated risk is deemed to be within acceptable limits. Specifically, the proposed development is considered to have the required level of flood protection up to and including the 1% AEP flood event. Overland flow paths have been identified for pluvial flooding exceeding the capacity of the surface water drainage network.

11.9.4. A potential for an effect to arise during the construction of the proposed development from the emission of sediments or hydrocarbons to surface water is described in section 10.5 of the EIAR. The potential for such effects arises in projects that involve building on suburban infill sites. It is therefore commonplace. There are standard measures that are used to avoid such effects which are described in section 10.6 of the EIAR. The efficacy of such measures is established in practice. Subject to the implementation of those measures, the construction of the proposed development would be unlikely to have significant effects on the quality of water.

Water Supply

11.9.5. The water supply for the proposed development would be from a new connection from the public network which Irish Water advises is feasible. Existing 12" and 15" diameter bulk water mains traverse the site from west to east (in the vicinity of the site's northern extents). Irish Water has a wayleave over these water mains.

Foul drainage

11.9.6. It is proposed to drain foul effluent from the proposed development to the public foul sewer, this is outlined in section 10.4.4 of the EIAR. The foul water produced by the development will exit the site via connection by gravity into a 300mm foul sewer along the northern boundary of the site. No specific mitigation measures are proposed in relation to foul drainage. The proposed effluent generated by the scheme (daily foul discharge volume of 107m³) combined with the separation and attenuation of storm flows is predicted to have a minimal impact on the receiving drainage infrastructure.

11.9.7. It can therefore be concluded that, subject to the implementation of the measures described in the EIAR, the proposed development would not be likely to have a significant effect on water. With regard to cumulative impacts, no significant cumulative impacts on the water environment are anticipated.

11.9.8. I have considered all of the written submissions made in relation to water and the relevant contents of the file including the EIAR. I am satisfied with the level of information submitted, any issues of a technical nature can be addressed by condition as necessary.

11.10. Air Quality and Climatic Factors (Climate)

11.10.1. Air Quality and Climate Change area outlined in chapter 11 of the EIAR. The proposed apartment units and open spaces would not accommodate activities that would cause emissions that would be likely to have significant effects on air quality. There is a potential for dust emissions to occur during construction, but standard means are proposed to mitigate this potential as set out in section 17 of the EIAR. They are likely to be effective. It is therefore concluded that the proposed development is unlikely to have significant effects on air. In terms of noise and vibration, this is most likely during the construction phase of development and the

likelihood of noise and nuisance from this phase of activity. Impacts to the receiving environment during the construction phase will be mitigated by standard practices and it is not anticipated that the operational phase will result in any noise or vibration issues.

11.10.2. I have considered all of the written submissions made in relation to air quality and climate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

11.11. Landscape and visual impact assessment

11.11.1. Chapter 9 outlines landscape and the visual impacts that would arise from the development. The environmental impacts from the proposed development are detailed in the EIAR, to avoid repetition and to be clear, I have assessed in detail the impact of the scale and height of the proposed development on the suburban environs of the site from an urban design and planning context in the planning assessment of my report.

11.11.2. The lands are not recorded as a high value landscape but are located within the foothills of the Dublin Mountains, where there are objectives to protect and preserve views. Observers have highlighted strong concerns about the negative visual impact of the development. The EIAR highlights the construction impacts on the visual amenity of the area and positive impacts of the completed development on the suburban consolidation of the city. The layout of the site and positioning of higher buildings towards the north and lower portion of the site together with landscaping proposals and objectives to create a new street network aim to minimise the visual impact of the development.

11.11.3. The proposed development would change the site from unproductive agricultural fields to a higher density apartment scheme with buildings of up to six storeys. This would significantly alter its character. The site provides unused suburban infill lands of limited visual quality to what is otherwise lower density urban housing in the wider area. The context is already suburban. The broad changes that would arise from the proposed development would not have a negative effect on the

landscape such as it is. Even the taller elements will have limited visibility except from the M50 where they will be seen as a new feature on what is otherwise an area with no other buildings of such height and this impact is seen as positive.

11.11.4. I have considered all of the written submissions made in relation to landscape and visual impact and considered in detail the urban design and placemaking aspects of the proposed development in my planning assessment above. From an environmental impact perspective, I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme. That is to say the position of taller elements at the northern and lowest part of the overall lands. I am therefore satisfied that the proposed development would have an acceptable direct, indirect and cumulative effects on the landscape and on visual impact.

11.12. Material assets (waste, traffic and transportation, site services)

11.12.1. The material assets chapters of the EIAR primarily addresses the impact of the development on the construction phase, local road network and public transport. Observers have raised concerns in relation to the probable increase in traffic, car parking problems and the existing public transport networks that are limited at best. From an environmental perspective the EIAR addresses these issues individually and I have addressed similar issues under the Traffic and Transport section of my report. The proposed development would not impact upon the operational capacity of road junctions, however, the construction phase would bring additional traffic into the area, this can be managed. Occupiers of the development would place additional demands on public transport and road infrastructure. But this should lead to increased investment in improvement and further provision. No significant impacts are anticipated.

11.12.2. Cumulative impacts have been considered, including proposed development in the vicinity of the site. The result is stated to be a long term imperceptible negative cumulative impact on local traffic. I am satisfied that while some cumulative effects may arise from the proposed development together with existing and permitted developments, these would be avoided, managed and mitigated by the measures which form part of the proposed development and through suitable conditions. In terms of material assets and built services, impacts are considered in relation to

water supply, foul and surface water drainage, gas and telecommunications and the electrical network. Any impacts are seen as temporary and in general impacts are seen as positive in terms of improvements to networks.

11.12.3. I have considered all of the written submissions made in relation to traffic and transport. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of traffic and transport.

11.13. Archaeology, Architectural and Cultural Heritage

11.13.1. Chapter 5 of the EIAR deals with Archaeology, Architectural and Cultural Heritage. No archaeological investigations have previously taken place within the proposed development area, however, several have been carried out within 500m and these have been summarised in paragraph 5.3.2 of the EIAR. An observer has made the point that the site may have archaeological significance and appropriate assessments should be made before development occurs. Based upon earlier assessments in the area, there are no recorded monuments within a 500m radius of the proposed development. There two Protected Structures (also recorded by the NIAH), a gate lodge (RPS No. 335) 265m to the south associated with Woodtown Park/Manor and the Ballyboden Waterworks (RPS. No. 333) 430m to the northeast. The EIAR states that aerial photographic coverage did not reveal any previously unknown archaeological features, but did indicate that the proposed development area has been subject to some disturbance associated with the construction of Stocking Avenue, an area of hard standing at the centre of the site, and disturbance at the northern end of the site as a result of the construction of the M50. It is unlikely that the site would yield significant archaeological deposits, however, given the scale of the site an appropriate condition to monitor works could be applied.

11.13.2. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme. I therefore consider that the proposed development would

have an acceptable level of direct or indirect impacts on architectural and cultural heritage.

11.14. The interaction between the above factors

11.14.1. The potential impact of the development on land, soil, water and biodiversity interact, due to the need to avoid the emissions of sediments to the existing combined public sewer system in order to protect water quality and the aquatic habitats there. The potential impact on land and soil interacts with that on air due to the need to control dust emissions during ground works and construction. The potential impact of the development on material assets interacts with that on the population due to the provision of a substantial amount of housing for the population. The various interactions were properly described in the EIAR, table 16.1 provides a summary of interactions, and have been considered in the course of this EIA.

11.15. Cumulative Impacts

11.15.1. The proposed development could occur in tandem with the development of other sites that are zoned in the area, including the completion of development at White Pines to the south and the Village Centre to the west. Such development would be unlikely to differ from that envisaged under the county development and local area plans which have been subject to Strategic Environment Assessment. Its scale may be limited by the provisions of those plans and its form and character would be similar to the development proposed in this application. The actual nature and scale of the proposed development is more or less in keeping with the zoning of the site and the other provisions of the relevant plans. The proposed development is not likely to give rise to environmental effects that were not envisaged in the plans that were subject to SEA. It is therefore concluded that the cumulation of effects from the planned and permitted development and that currently proposed would not be likely to give rise to significant effects on the environment other than those that have been described in the EIAR and considered in this EIA.

11.16. Reasoned Conclusion on the Significant Effects

11.16.1. Having regard to the examination of environmental information set out above, to the EIAR and other information provided by the developer, and to the submissions from the planning authority, prescribed bodies and observers in the course of the

application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of non-productive farmland and hardstanding to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of most material on the site and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.
- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

11.16.2. The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate. The assessments provided in all of the individual EIAR chapters are satisfactory, I am satisfied with the information provided to enable the likely significant environmental effects arising as a

consequence of the proposed development to be satisfactorily identified, described and assessed. The environmental impacts identified are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

12.0 Appropriate Assessment

12.1. Introduction

12.1.1. The applicant has submitted an 'Appropriate Assessment Screening Report', prepared by Altamar Marine and Environmental Consultancy and dated March 2021. In addition to an Appropriate Assessment (AA) Screening Report, an EIAR (Ecology Field Survey November 2019 and April 2020), Biodiversity Management Plan and Arboricultural Assessment Tree Protection Strategy Report were all submitted with the application. I have had regard to the contents of these reports as part of my assessment below. The applicant's AA Screening Report concludes that the strategic housing development, either individually or in combination with other plans or projects, would not be likely to have any significant effect on any European sites.

12.2. AA Screening

12.2.1. The subject site is not located within any Designated European site. The nearest Natura 2000 site is c. 4 km to the south west of the application lands. There are no surface water features located within the site. However, surface and foul waters from the proposed development will ultimately drain to Dublin Bay, which contains European sites. There is an indirect pathway from the site to surface water network to Dublin Bay via the River Dodder/ foul water networks to Ringsend WWTP. The proposed development site is located in a suburban environment and there is no intact biodiversity corridor to Natura 2000 sites. Following the precautionary principle screening of all Natura 2000 within 15km has been carried out. It should be noted that all Natura 2000 sites beyond 10km have no direct or indirect pathways to the proposed site. The Natura 2000 sites beyond 15km are located in the marine or coastal environments where significant mixing or dilution will occur or they are located inland with no direct or indirect pathways.

12.2.2. In terms of zone of interest the following Natura 2000 sites are within 15 km of the application site: Glenasmole Valley SAC 4.0 km, Wicklow Mountains SAC 4.2 km,

South Dublin Bay SAC 8.7 km, Knocksink Wood SAC 9.5 km, Ballyman Glen 12.1 km, North Dublin Bay SAC 13.1 km, Rockabill to Dalkey Island SAC 14.6 km SPA, Wicklow Mountains SPA 3.9 km, South Dublin Bay and River Tolka Estuary SPA 8.6 km, North Bull Island SPA 13.2 km and Dalkey Islands SPA 14.4km.

- 12.2.3. The applicant has screened out all sites and provided reasons for doing so, Table 2 of the AA Screening report refers. It is the applicant's view that when combined with the separation distances involved and the lack of a direct pathway (or in some cases indirect pathway) from the site to either an SAC or SPA, the proposed development will not impact on the conservation interests of the site. In addition, with regard to the marine environments and the effect of dispersal, settlement or dilution, it can be reasonably concluded that there will be no significant impacts.
- 12.2.4. In applying the 'source-pathway-receptor' model to all Natura 2000 sites within 15 km of the application site I mostly agree with the applicant's viewpoint that each site can be ruled out. However, in applying the precautionary principle to its fullest extent, I consider that the following sites could potentially be affected due to connections via the surface water drainage network: South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206).
- 12.2.5. Having regard to the conservation objectives of the remaining sites listed in table 2 of the applicant's Screening Report, and based on the source-pathway-receptor model, I am satisfied that other European sites proximate to the subject site can be 'screened out' on the basis that significant impacts on these European sites could be ruled out, either as a result of the separation distance from the subject site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the subject site. I am satisfied that the four sites, as I have identified, are those sites that are within the zone of influence of the project given the drainage links to Dublin Bay.
- 12.2.6. The Qualifying Interests (QIs) and Special Conservation Interests (SCIs) of the European sites in the vicinity of the proposed development site are detailed at Table 2 of the applicant's AA Screening Assessment and those that cannot be excluded are listed below:

| | |
|-------------------------------|-------------------------------|
| South Dublin Bay SAC [000210] | North Dublin Bay SAC [000206] |
|-------------------------------|-------------------------------|

| | |
|---|--|
| | |
| [1140] Mudflats and sandflats not covered by seawater at low tide | [1140] Mudflats and sandflats not covered by seawater at low tide |
| [1210] Annual vegetation of drift lines | [1210] Annual vegetation of drift lines |
| [1310] Salicornia and other annuals colonising mud and sand | [1310] Salicornia and other annuals colonising mud and sand |
| [2110] Embryonic shifting dunes | [1330] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) |
| | [1395] Petalwort <i>Petalophyllum ralfsii</i> |
| | [1410] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) |
| | [2110] Embryonic shifting dunes |
| | [2120] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) |
| | [2130] Fixed coastal dunes with herbaceous vegetation (grey dunes) |
| | [2190] Humid dune slacks |

| South Dublin Bay and River Tolka Estuary SPA [004024] | North Bull Island SPA [004006] |
|---|---|
| [A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i> | [A046] Light-bellied Brent Goose <i>Branta bernicla hrota</i> |
| [A130] Oystercatcher <i>Haematopus ostralegus</i> | [A048] Shelduck <i>Tadorna tadorna</i> |
| [A137] Ringed Plover <i>Charadrius hiaticula</i> | [A052] Teal <i>Anas crecca</i> |
| [A141] Grey Plover <i>Pluvialis squatarola</i> | [A054] Pintail <i>Anas acuta</i> |
| [A143] Knot <i>Calidris canutus</i> | [A056] Shoveler <i>Anas clypeata</i> |

| | |
|---|---|
| [A144] Sanderling <i>Calidris alba</i> | [A130] Oystercatcher <i>Haematopus ostralegus</i> |
| [A149] Dunlin <i>Calidris alpina</i> | [A140] Golden Plover <i>Pluvialis apricaria</i> |
| [A157] Bar-tailed Godwit <i>Limosa lapponica</i> | [A141] Grey Plover <i>Pluvialis squatarola</i> |
| [A162] Redshank <i>Tringa totanus</i> | [A143] Knot <i>Calidris canutus</i> |
| [A179] Black-headed Gull <i>Croicocephalus ridibundus</i> | [A144] Sanderling <i>Calidris alba</i> |
| [A192] Roseate Tern <i>Sterna dougallii</i> | [A149] Dunlin <i>Calidris alpina</i> |
| [A193] Common Tern <i>Sterna hirundo</i> | [A156] Black-tailed Godwit <i>Limosa limosa</i> |
| [A194] Arctic Tern <i>Sterna paradisaea</i> | [A157] Bar-tailed Godwit <i>Limosa lapponica</i> |
| [A999] Wetland and Waterbirds | [A160] Curlew <i>Numenius arquata</i> |
| | [A162] Redshank <i>Tringa totanus</i> |
| | [A169] Turnstone <i>Arenaria interpres</i> |
| | [A179] Black-headed Gull <i>Croicocephalus ridibundus</i> |
| | [A999] Wetlands & Waterbirds |

12.2.7. The Conservation Objectives for the sites are to maintain or restore the favourable conservation condition of each qualifying species/habitat. The potential effects on the above sites arise from the hydrological connection between the development site and those Natura 2000 sites in the form of surface water drainage connection. There is a possibility of contaminated surface water run-off, or an accidental pollution event during construction or operation, that could lead to habitat degradation. Surface waters from the proposed development will drain via existing municipal surface water infrastructure located to the north of the application site.

12.2.8. Surface water from the proposed development will pass through a range of SuDS including green roofs, permeable paving, swales and bio-retention systems. Waters

from green roofs and permeable paving and all other surface water will be attenuated in an underground attenuation tank. All surface waters will pass through a hydrocarbon interceptor before discharge to the surface water network (See 'Infrastructure Design Report' and drawings by DBFL Consulting Engineers and for construction stage see 'Preliminary Construction Management Plan' also prepared by DBFL Consulting Engineers).

12.2.9. These waters will ultimately drain to Dublin Bay. The proposed development does not comprise works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission. The good construction practices are required irrespective of the site's hydrological connection via the urban surface water drainage system to those Natura 2000 sites. There is nothing unique, particularly challenging or innovative about this urban development on a brownfield urban site, either at construction phase or operational phase. It is therefore evident from the information before the Board that the proposed construction on the applicant's landholding would not be likely to have a significant effect on the North Dublin Bay SAC/South Dublin Bay SAC/North Bull Island SPA/South Dublin Bay and River Tolka Estuary SPA. Stage II AA is not required.

12.3. **AA Screening Conclusion:**

12.3.1. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on North Dublin Bay SAC [000209], South Dublin Bay SAC [000210], North Bull Island SPA [004006] and South Dublin Bay and River Tolka Estuary SPA [004024] or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

13.0 Recommendation

13.1. Having regard to the above assessment, I recommend that section 9(4)(c) of the Act of 2016 be applied, and that permission is GRANTED for the development as proposed for the reasons and considerations and subject to the conditions set out below.

14.0 Reasons and Considerations

Having regard to the:

- (a) the location of the site in an established suburban area, in an area zoned residential;
- (b) the policies and objectives in the South Dublin County Council Development Plan 2016-2022; and Ballycullen – Oldcourt Local Area Plan (2014) Extended;
- (c) objectives 27 and 33 of the National Planning Framework;
- (d) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (e) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (f) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013 (2019);
- (g) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (h) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (i) 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' prepared by the Department of Housing, Planning and Local Government 2020;

- (j) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (k) the nature, scale and design of the proposed development;
- (l) the availability in the area of a wide range of educational, social, community and transport infrastructure,
- (m) the pattern of existing and permitted development in the area,
- (n) The Report of the Chief Executive of South Dublin County Council received from the planning authority;
- (o) the submissions and observations received;
- (p) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 Recommended Draft Board Order

Planning and Development Acts 2000 to 2020

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars lodged with An Bord Pleanála on the 30th day of March 2021 by Ardstone Homes Limited, 48 Fitzwilliam Square, Dublin 2.

Proposed Development

The proposed development on a site of 2.98 hectares will consist of 241 residential units in five apartment blocks and three duplex blocks, the detail is as follows:

| Parameter | Site Proposal |
|----------------------------------|--|
| Application Site | 2.98 hectares |
| No. of Units | 241 units (apartments and duplex units) |
| Density | 80 units per hectare |
| Dual Aspect | 133 units (55%) |
| Other Uses | Community space – 552 sqm |
| Private Communal Space | 782 sqm |
| Public Open Space | 13,347 sqm – 45% of site area. |
| Residential Amenity Space | 171 sqm |
| Height | 3-6 storeys |
| Parking | 204 surface car spaces 422 bicycle spaces |
| Vehicular Access | Stocking Avenue and from White Pines North. |

| | |
|---------------|--------------------|
| Part V | 22 (two bed units) |
|---------------|--------------------|

Housing Mix

| Unit Type | 1 bed | 2 bed | Total |
|-------------------|--------------|--------------|--------------|
| Apartments | 93 | 148 | 241 |
| % of Total | 39% | 61% | 100% |

- The main vehicular access to the scheme will be from Stocking Avenue, with a second vehicular entrance from White Pines Meadow to the north west of the site.
- One single storey plant room, three ESB sub-stations, provision of public and private open space including hard and soft landscaping.
- Permission is also sought to omit a childcare facility measuring 364.8 sqm that was approved under South Dublin County Council File Ref. SD14A/0222.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the location of the site in an established suburban area, in an area zoned residential;
- (b) the policies and objectives in the South Dublin County Council Development Plan 2016-2022; and Ballycullen – Oldcourt Local Area Plan (2014) Extended;
- (c) objectives 27 and 33 of the National Planning Framework;
- (d) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031;
- (e) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (f) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013 (2019);
- (g) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (h) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (i) ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’ prepared by the Department of Housing, Planning and Local Government 2020;
- (j) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (k) the nature, scale and design of the proposed development;
- (l) the availability in the area of a wide range of educational, social, community and transport infrastructure,
- (m) the pattern of existing and permitted development in the area,

- (n) The Report of the Chief Executive of South Dublin County Council received from the planning authority;
- (o) the submissions and observations received;
- (p) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated Natura 2000 Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed, in compliance with s.172 of the Planning and Development Act 2000, an Environmental Impact Assessment of the proposed development, taking into account:

- (a) The nature, scale and extent of the proposed development;
- (b) The Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) The submissions from the applicant, planning authority, the observers and the prescribed bodies in the course of the application; and
- (d) The Planning Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Significant direct positive effects with regard to population and material assets due to the increase in the housing stock that it would make available in the urban area.
- A significant direct effect on land by the change in the use and appearance of a relatively large area of non-productive farmland and hardstanding to residential. Given the location of the site within the built up area of Dublin and the public need for housing in the region, this effect would not have a significant negative impact on the environment.
- Potential significant effects on soil during construction, which will be mitigated by the re-use of most material on the site and the implementation of measures to control emissions of sediment to water and dust to air during construction.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme.

- Potential indirect effects on water which will be mitigated during the occupation of the development by the proposed system for surface water management and attenuation with respect to stormwater runoff and the drainage of foul effluent to the public foul sewerage system, and which will be mitigated during construction by appropriate management measures to control the emissions of sediment to water.
- A positive effect on the streetscape because the proposed development would improve the amenity of the land through the provision of dedicated public open spaces and improved public realm.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusion on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the planning authority.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the

South Dublin County Council Development Plan 2016-2022; and Ballycullen – Oldcourt Local Area Plan (2014) Extended in relation to building height, the Ballycullen – Oldcourt Local Area Plan (2014) Extended in relation to residential density and dwelling mix, and the South Dublin County Council Development Plan 2016-2022 in relation to separation distances. The Board considers that, having regard to the provisions of section 37(2)(b)(i), (ii), (iii) and (iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Local Area Plan and County Development Plan would be justified for the following reasons and consideration:

a) In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The current application has been lodged under the Strategic Housing legislation and the proposal is considered to be strategic in nature. National policy as expressed within Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness and the National Planning Framework – Ireland 2040 fully support the need for urban infill residential development, such as that proposed on this site.

b) In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended):

It is the view of the Board that the objectives of Housing Policy 8, to support higher densities, conflict with the limitations in height contained within Housing Policy 9 Objectives 3 and 4. While the objectives contained within Housing Policy 8 generally encourage higher densities and efficient use of lands, at appropriate locations, Policy 9 objective 3 seeks 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); and Policy 9 objective 4 seeks to direct tall buildings that exceed five storeys in height to strategic and landmark locations in Town Centres, Mixed Use zones and Strategic Development Zones and subject to an approved Local Area Plan or Planning Scheme. Given that higher densities are generally associated with increased heights, limiting new residential development to no more than two storeys in height unless a separation distance of 35 metres is maintained as outlined by Policy 9

Objective 3 and restricting developments that exceed 5 storeys to the limited number of sites that fulfil Policy 9 Objective 4, conflicts with the objective to maximise the most efficient use of remaining sites, which may also be suitable for higher densities

c) In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

Permission for the development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework, specifically: in relation to the matter of building height, SPPR 3 of the Building Height Guidelines which states that where a development complies with the Development Management Criteria in section 3.2, it may be approved, even where specific objectives of the relevant development plan or local area plan may indicate otherwise and national policy in Project Ireland 2040 National Planning Framework (in particular objectives 13 and 35). An assessment of the proposed development was carried out to determine that the proposed development conforms with the development management criteria in section 3.2 of the Urban Development and Building Height Guidelines. The Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031, seeks to increase densities on appropriate sites within Dublin City and Suburbs.

d) In relation to section 37(2)(b) (iv) of the Planning and Development Act 2000 (as amended):

The Board notes the recent approval for an SHD application on the Scholarstown Road ('Beechpark' and 'Maryfield', Scholarstown Road, Dublin 16) for a development of 590 no. residential units, up to 6 storeys in height (ABP Reference ABP-305878-19) and now under construction, located approximately 500 metres to the north of this site. Approximately 1.2 kilometres to the north east at Taylors Lane, Ballyboden, Dublin 16, permission has been granted for 496 apartments, up to seven storeys in height (ABP Reference ABP-307222-20). A neighbourhood centre and apartment building are under construction at present close to the subject site, planning authority reference SD19A/0345 refers. As such precedent for higher buildings (and higher densities) than currently exist has been established in this area.

17.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 17 of the Environmental Impact Assessment Report 'Mitigation Measures and Monitoring', shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. The proposed development shall be amended as follows:

(a) 48 perpendicular car parking spaces along the northern side of the access street in front of Blocks D and E shall be removed and replaced with a lesser number of parallel car parking spaces.

Drawings that detail this amendment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity and to promote more sustainable forms of transport.

4. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise 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.

Reason: In the interest of visual amenity.

5. The boundary planting and areas of communal open space and public open space shown on the lodged plans shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.

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

6. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external

plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

8. (a) All windows and roof lights shall be double-glazed and tightly fitting.

(b) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity.

9. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

10. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles

11. All roads and footpaths shown connecting to adjoining lands shall be constructed up to the boundaries with no ransom strips remaining to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted and agreed with the Planning Authority.

Reason: In the interest of permeability and proper planning and sustainable development.

12. a) Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the childcare facility of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

b) The Mobility Management Strategy shall incorporate a Car Parking Management Strategy for the overall development, which shall address the management and assignment of car spaces to residents and uses over time and shall include a strategy for the community use and any car-share parking. Car parking spaces shall not be sold with units but shall be assigned and managed in a separate capacity via leasing or permit arrangements.

Reason: In the interest of encouraging the use of sustainable modes of transport, traffic and pedestrian safety.

13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of

public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

14. Details of any alterations to the road and pedestrian network serving the proposed development, including loading areas, footpaths, kerbs and access road to the underground car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

15. 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 commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

16. (a) The developer is required to sign a connection agreement with Irish Water prior to any works commencing and connecting to its network. All development is to be carried out in compliance with Irish Water Standards codes and practices.

(b) The Ballycullen/ Oldcourt Local Network Reinforcement Project (LNRP) is underway and will be completed by the end of 2021. No unit shall be occupied until the LNRP is complete, unless otherwise agreed with the planning authority. In

default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of public health.

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

Reason: In the interest of sustainable waste management.

18. The construction of the development shall be managed in accordance with a final 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:

- (a) Works to remove trees and structures from the site shall take place outside of bird nesting season;
- (b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (c) Location of areas for construction site offices and staff facilities;
- (d) Details of site security fencing and hoardings. Hoardings shall include a one square metre area on each road frontage detailing site management contact details;
- (e) Details of on-site car parking facilities for site workers during the course of construction;

- (f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (g) Measures to obviate queuing of construction traffic on the adjoining road network;
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Details of dewatering arrangements for construction of any basement to be determined in consultation with the Drainage Division at South Dublin County Council and Inland Fisheries Ireland;
- (n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (o) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.
- (p) A community liaison officer shall be appointed for the duration of the construction works.

Reason: In the interest of amenities, public health and safety.

19. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

20. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive and 0800 to 1300 hours on Saturdays, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

21. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

22. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

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

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

24. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(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, and

(b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

25. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

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

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

27. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such

phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Stephen Rhys Thomas
Senior Planning Inspector

13 July 2021