



An  
Bord  
Pleanála

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

**Inspector's Report  
ABP-310398-21**

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<b>Strategic Housing Development</b>	114 no. Build-to-Rent apartments and associated site works.
<b>Location</b>	Lands at Stocking Avenue, Woodstown, Dublin 16. ( <a href="http://www.whitepinescentralshd.ie">www.whitepinescentralshd.ie</a> )
<b>Planning Authority</b>	South Dublin County Council
<b>Applicant</b>	Ardstone Homes Limited
<b>Prescribed Bodies</b>	Irish Water Department of Housing, Local Government and Heritage Inland Fisheries Ireland An Taisce Dept. of Defence

**Observer(s)**

Cllr. Alan Edge

Angela O'Donaghue

Ballyboden Tidy Towns Group

Francis Noel Duffy TD

White Pines North Residents Group

**Date of Site Inspection**

17/07/2021, 29/08/2021

**Inspector**

Conor McGrath

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## 1.0 Introduction

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.

## 2.0 Site Location and Description

- 2.1. The application site comprises a stated area of 2.1734 ha, located on the southern side of Stocking Lane, Woodstown, Dublin 16. The site falls from its eastern boundary (+123.00) towards its northwestern boundary (+103.50), approximately following the grade along Stocking Avenue. There is an existing mature hedgerow running northeast to southwest at the more elevated, eastern end of the site. Below this, the site appears to have been subject to disturbance / soil deposition, and the western end of the site is in use as a construction compound. The boundary with Stocking Lane is formed by a low wall with railings over at its western end. The block wall increases in height approx. mid way along the site frontage. A 110kv line traverses the site, running parallel to the southern site boundary and there are two pylon structures located within the site. The associated wayleave is described in the application as 34m wide (17m each side of the line).
- 2.2. The site is bounded to the southwest by existing residential development, White Pines South, comprises 2+-storey houses. To the west of the site, a retail development and childcare facility is currently under construction. Lands to the north of Stocking Avenue fall north toward the M50. To the north/northwest, White Pines North, comprises a development of recently completed 2+-storey houses. To the north, on the opposite side of Stocking Lane, permission has recently been granted for an apartment and duplex development at White Pines East. To the north-east of the site is a traveller accommodation site. Lands to the southeast rise away from the site and are in agricultural use with two one-off houses beyond the site.

### 3.0 Proposed Strategic Housing Development

The proposed development comprises the final phase of development within the White Pines Masterplan area, which includes White Pines South, White Pines Retail, White Pines North and White Pines East (recently granted permission). The application herein is referred to as White Pines Central.

The development comprises the construction of 114 No. Build to Rent residential units in a mix of 1, 2 and 3 bed apartment and duplex units, in 6 no. separate blocks. Block A comprises a 4-6 storeys, accommodating 47 no. apartments at the lower, western end of the site, while blocks B, C1, C2, D and E comprise duplex blocks that step up the slope, providing 67 no. duplex dwelling units. The development provides residential amenity facilities in the lower ground floor of Block A.

The main vehicular access is proposed from the roundabout on Stocking Avenue via the internal road network of White Pines South, at three points off White Dale Road. Pedestrian and cycle connections to Stocking Avenue area proposed, while there is also a proposed emergency vehicular access onto Stocking Avenue via a new priority junction in the north-eastern corner of the site.

The main development parameters as described in the application are as follows:

<b>Site Area</b>	<b>2.1734ha</b>
<b>Development proposed</b>	114 no. dwelling units 47 no. apartments 67 no. duplex units
<b>Density</b>	52.45 / ha
<b>Plot ratio</b>	0.5
<b>Public Open Space</b>	4,369-sq.m. (20%)
<b>Additional open space within 110kv Wayleave</b>	3,955-sq.m. (18%)
<b>Car parking</b>	98 spaces (0.86 / unit)
<b>Cycle parking *</b>	190 secure and 34 visitor
<b>Dual Aspect</b>	76% (43% in Block A)

\* The description in the Housing Quality Assessment and Planning Report differs from the description in the public notices.

<b>Housing Mix</b>	
1-bed	32 no. units / 28%
<b>2-bed</b>	53 no. units / 46.5%
<b>3-bed</b>	29 no. units / 25.4%

Works will involve changes in levels across the site; hard and soft landscaping; and all other associated site excavation; and infrastructural and site development works above and below ground. The application estimates the volume of material to be excavated as c.18,000m<sup>3</sup>, with the removal of approx. 9,000m<sup>3</sup> of excavated material offsite for appropriate reuse, recycling or disposal, with the remainder reused onsite in landscaping and non-structural fill.

#### 4.0 Planning History

**PA ref. SD04A/0393**      **ABP Ref. PL06S.212191:** Ten-year permission granted for a development comprising residential, crèche, retail, office and public house uses and including the construction of 793 no. dwellings. This application included the subject site and was subject to an overall masterplan.

Of this permission, 372 no. units were constructed to the west of the subject application lands, at Stocking Wood and Stocking Well. This was subject to amendment by subsequent applicants.

White Pines North:

**PA ref. SD14A/0222:** 10-year permission granted for the construction of 164 two-storey houses and 8 apartments and 1 crèche in a five-storey block. This was amended by subsequent applications.

**PA ref. SD17A/0376:** Permission granted to modify the childcare facility granted under Reg. Ref. SD14A/0222 (as amended by Reg. Ref. SD17A/0132) in order to provide a larger childcare facility serving permitted and future dwellings to the lands north and south of Stocking Avenue. The proposed facility was two storeys high with a gross floor area of 766.25sq.m.

White Pines South:

**PA ref. SD10A/0041 ABP PL06S.304670:** 10-year permission for amendments to PA ref. SD04A/0393, PL06S.212191 and PA Ref. SD09A/0016 / PL06S.233251 comprising 122 no. houses on the White Pines South site. This was subject to various subsequent amending applications.

**PA ref. SD17A/0359:** Permission granted for amendments to SD10A/0041, relating to 99 of the 122 houses permitted. The amendments consisted of elevational changes and levels across the site, as well as the provision of waste storage facilities, car parking spaces, boundary treatments and street lighting; SUD's measures and associated works.

The duration of this permission was subsequently extended to Jan 2021 under ref. SD17A/0359/EP.

White Pine Retail

**SD19A/0345** (as amended SDCC Ref. SD20A/0322): Permission granted for the construction of a neighbourhood centre comprising a single storey convenience retail and a three storey creche building (c.590sq.m. GFA). Original proposals for a second-floor community centre were omitted by condition. This development is currently under construction.

White Pines East

**ABP ref. PL06S.309836:** Permission granted in July 2021 for a strategic housing development on the northern side of Stocking Avenue, opposite the subject application site, comprising the provision of 241 no. residential units and associated works, including the provision of a community facility of 552-sq.m. in lieu of that previously proposed in White Pines Retail

Other relevant Cases:

**PA ref. SD21A/0137:** Temporary permission granted in July 2021 for a two storey post-primary school (Firhouse Educate Together), to the west of Ballycullen Road on lands identified in the LAP for primary / post-primary school. The secondary school currently operates in vacant classrooms in existing primary schools to north of Killinniny Road and will relocate to this site to meet demand.

## 5.0 Section 5 Pre-Application Consultation: ABP-308642-20

- 5.1. A section 5 pre-application consultation meeting was held on 8<sup>th</sup> February 2021. Arising from this meeting and the documentation submitted with the request, having regard to the submissions from the planning authority and Irish Water, the Board issued a notice under section 6(7) of the Act stating its opinion that 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.
- 5.2. The following issues were to be addressed in order that the documents submitted could be regarded as constituting a reasonable basis for an application for strategic housing development.

### 1. Design Strategy

Further consideration of the documents as they relate to the design and layout of the proposed development, including how the design has been influenced by the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)' and criteria within the 'Urban Development and Building Heights - Guidelines for Planning Authorities', particularly in relation to addressing the street, contribution to the urban neighbourhood and streetscape, and the quality of detailed building design / material use.

Further consideration of the aesthetic impact of surface level car parking, and whether there is potential for an alternative arrangement. Photomontages, CGIs and a Landscape Visual Impact Assessment alongside verified views were required to accurately illustrate the appearance of the proposed development.



Furthermore, Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information was requested:

1. Details relating to compliance with site specific requirements, phasing requirements and other relevant objectives as set out in the Ballycullen – Oldcourt Local Area Plan, 2014 and the Development Plan.
2. Topographical details and commentary on how this has impacted the design of the development, as well as details and cross section drawings of any proposed retaining walls. Potential impacts from site excavation should also be given comprehensive consideration.
3. Separation distances to adjacent properties should be included, identifying key distances to boundaries, buildings and windows.
4. Additional details and/or proposals in relation to the proximity of the development to the southeast boundary, and potential impact upon the development potential of adjacent lands.
5. Additional details and/or revised proposals in relation to the quality of ground floor uses, entrance details and access to cycle storage, within Block A.
6. Additional details and/or revised proposals in relation to the proposed material palette. Details shall be described in a building life cycle report.
7. A Housing Quality Assessment. Those windows considered to have a dual aspect should be clearly indicated.
8. Submission of a comprehensive Daylight, Sunlight and Overshadowing Assessment.
9. Proposals for appropriate mitigation of tree/hedge removal.
10. Additional details and/or revised proposals in relation to landscape design having regard to comments from the Planning Authority.
11. Details and/or proposals in relation to attenuation/SUDs, Flood Risk, and any matters raised by the Planning Authority Drainage and Water Supply Section.
12. Additional details and/or revised proposals in relation to access arrangements, and any other matters raised by the Planning Authority Roads Department.
13. The Childcare Demand Assessment should reflect the most current data available at the time of submission in relation to surrounding existing childcare

provision; or describe the proposed solution for meeting childcare demand generated by the development, alongside cumulative demand within the White Pines development area.

The following authorities were to be notified of the making of an application:

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

### **5.3. Applicants Statement of Response**

In accordance with Article 298(3) a statement of response to the opinion of the Board is submitted with the application. The statement makes the following points:

#### **5.3.1. Item no. 1: Design Strategy**

- Block A has been reduced from 8-storeys to 6-storeys, with a reduction in 23 no. residential units. The development now no longer proposes any Studio units.
- The density has been significantly reduced from 62 / ha to 52 / ha.
- The Statement of Consistency, Material Contravention Statement and Planning Report, describe how the development has been designed in accordance with National Planning Policy and Guidance, including:
  - Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the associated Urban Design Manual.
  - Urban Development and Building Heights Guidelines for Planning Authorities.
- The Architectural Design Statement provides the Architectural Response to the design criteria of the Urban Design Manual and justification for the proposed height of Block A, given its prominent location.
- Constraints include irregular site shape, topography, existing masterplan components, national and local planning policy and the powerline wayleave.

- Key challenges include the provision of an urban edge, accessibility and permeability, creation of a viable and vibrant public realm and sufficient and usable open space, variation in height and minimal use of retaining walls.
- SD04A/0393, PL06S.212191 provided for 126 No. residential units on this site. It required substantial excavation and retaining walls and did not provide adequate residential amenity. The relationship with Stocking Lane was inappropriate.
- Various design options were considered.
- The indicative site layout elements of the Ballycullen Oldcourt Local Area Plan have been incorporated into the scheme.
- Basement car parking has been discounted on topography and viability grounds.
- The Parking Strategy provides a rationale for the quantum of car parking proposed (0.85 spaces / unit).
- Adjoining development was permitted with entirely on-street car parking.
- The EIAR provides a Landscape and Visual Impact Assessment, and photomontages are submitted with this Application.

#### 5.3.2. Request For Specific Information

1. Section 5.4 of the Statement of Consistency assesses compliance with the phasing strategy set out in the Ballycullen-Oldcourt Local Area Plan. Aspects of the development may materially contravene the LAP and are addressed in the Material Contravention Statement.
2. The Architectural Design Statement and associated drawings address the treatment of topography. The use of retaining walls has been minimised.
3. Drawings detail the key separation distances to adjacent properties. The Architectural Design Statement assesses separation distances to the surrounding area. The development maintains a distance of more than 35m to existing adjoining residential development in accordance with the development plan.
4. The Architectural Design Statement demonstrates that the development will not prejudice future development to the east / southeast as those lands are in excess of the 11 / 22m requirement for overlooking and privacy should adjacent development provide back to back housing units at this boundary.

5. The Architectural Design Statement addresses the quality of ground floor uses, and entrance details, including access to cycle storage for Block A and the wider development, and the Ground Floor Strategy.
6. The Architectural Design Statement provides detail on the material palette and a Building Lifecycle Report has been prepared. Landscape finishes are described in the Landscape Report and provided by the landscape architects.
7. The Housing Quality Assessment confirms that all dwelling units comply with the requirements of the Sustainable Urban Housing: Design Standards for New Apartments. 75% of units are true dual-aspect, with further enhanced features provided to some additional units.
8. A Sunlight Daylight and Shadowing Analysis provides a quantitative assessment of all residential units proposed. All units meet, and in the majority of cases exceed, the Average Daylight Factor recommended in the BRE Guidelines. The development has negligible daylight or sunlight impact on surrounding properties, and negligible overshadowing impacts will be perceived by surrounding open spaces.
9. The Landscape Architects Report details how the design seeks to retain trees/hedges, where possible.
10. Landscape design and play provision has been designed in consultation with SDCC Parks Dept. Formal public open space exceeds the requirements of the LAP, comprising 4,369m<sup>2</sup> public open space (20.1%), 1521m<sup>2</sup> of visual amenity (7%) and 3,955m<sup>2</sup> of further usable public open space in the wayleave under the overhead power lines (18.2%).
11. The Infrastructure Design Report addresses SuDS measures in detail.
12. The Traffic and Transport Assessment Report addresses the matters raised by the Planning Authority Roads Department. The site benefits from four pedestrian links along its northern frontage to Stocking Avenue, assisting in connecting the entire White Pines Masterplan area.
13. A Childcare Demand Assessment has been prepared

5.3.3. Copies of the letters issued to the following authorities are provided;

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

## 6.0 Relevant Planning Policy

### 6.1. National and Regional Policy

#### 6.1.1. National Planning Framework:

National Strategic Outcome 1: Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas.

Activating these strategic areas and achieving effective density and consolidation, rather than urban sprawl is a top priority.

Objective 3a seeks to deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

Objective 13 seeks to base planning and related standards including building height and car parking in urban areas, on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.

Objectives of Chapter 6, 'People Homes and Communities', including 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.

Objective 33 seeks to prioritise the new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Objective 35 seeks to increase densities 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.

### 6.1.2. **Rebuilding Ireland – Action Plan for Housing and Homelessness 2016**

The plan identifies five pillars for action. Pillar 3: Build More Homes, seeks to increase the output of private housing to meet demand at affordable prices. The key action is to double housing output over the Plan period.

Pillar 4: Improve the Rental Sector. The key objective is addressing obstacles to greater private rented sector delivery and improving the supply of units at affordable rents. Key actions include encouraging “build to rent”. Build-to-rent developments are designed with the occupants in mind – this might be equal sized bedrooms clustered around a central shared space, or the inclusion of amenities such as gyms and crèches and shared entertainment facilities.

### 6.1.3. **Regional Spatial and Economic Strategy for the Eastern and Midland Region**

The Strategy supports the implementation of Project Ireland 2040 and the National Planning Framework (NPF).

RPO 3.2 promotes compact urban growth, targets 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 3.3 requires local authorities to provide for increased densities as set out in the ‘Sustainable Residential Development in Urban Areas’, ‘Sustainable Urban Housing; Design Standards for new Apartments Guidelines’ and the ‘Urban Development and Building Heights Guidelines for Planning Authorities’.

The site lies within the Dublin Metropolitan Area. The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas to ensure a steady supply of serviced development lands to support sustainable growth. Section 5.3 identifies guiding principles for development of the MASP area including:

Compact sustainable growth and accelerated housing delivery – To promote sustainable consolidated growth of the Metropolitan Area, including brownfield and infill development, to achieve a target to 50% of all new homes within or contiguous to the built-up area of Dublin City and suburbs, and at least 30% in other settlements. To support a steady supply of sites and to accelerate housing

supply in order to achieve higher densities in urban built up areas, supported by improved services and public transport.

## 6.2. Section 28 Ministerial Guidelines

6.2.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including the report of the Chief Executive, and observers' submissions, I am of the opinion, that the directly relevant section 28 Ministerial Guidelines are:

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities.
- Urban Development and Building heights, Guidelines for Planning Authorities.
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated 'Urban Design Manual').
- Circular Letter: NRUP 02/2021 in respect of Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
- Design Manual for Urban Roads and Streets (DMURS).
- National Cycle Manual.
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated 'Technical Appendices').
- Childcare Facilities – Guidelines for Planning Authorities.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment.

## 6.3. Local Planning Policy

### 6.3.1. South Dublin County Development Plan 2016-2022

The site is zoned 'Objective RES-N – To provide for new residential communities in accordance with approved area plans'. Residential use is permitted in principle.

Chapter 2 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. Section 2.2.2 notes that densities should take account of the

location of a site, the proposed mix of dwelling types and the availability of public transport services. Higher densities should be located within walking distance of town and district centres and high-capacity public transport facilities.

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 – ensure new residential development is of high-quality design and complies with Government guidance.

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.

Obj. 1 to encourage varied building heights in new residential development.

Obj. 2 - To ensure that higher buildings in established areas respect the surrounding context.

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.

Obj. 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.

Policy TM7 – Transport and Mobility – to take a balanced approach to car parking with aim of meeting the needs of businesses and communities whilst promoting a transition to more sustainable forms of transportation.

Development Management Standards are included in Chapter 11.

Table 11.24 sets out the Maximum Parking rates for residential development.

### 6.3.2. **Ballycullen – Oldcourt Local Area Plan, 2014 (as amended 2017)**



(Note: This LAP was extended in 2019 and will now expire in June 2024.)

The settlement strategy provides for the construction of approximately 1,600 additional dwellings (about 4,600 persons) at a range of densities.

Section 4.6 *Land Use and Density Rationale*, defines three no. character areas comprising Lower, Mid and Upper slope lands. Section 5 sets out the strategy for the plan area and includes Table 5.4, *Required Densities Density per Ha*.

<b>Landscape Area</b>	<b>Net Average dwellings per Ha</b>
Lower Slope Lands	32 – 38
Mid-Slope Lands	22 – 28
Upper Slope Lands	12 – 18

Section 5.4 notes that the dwelling mix within the Lower Slope Lands should consist of medium to low density suburban housing. On Mid Slope Lands, residential development should comprise lower density dwelling types on larger plots that reduce the potential impact on the topography of the landscape. On Upper Slope Lands, section 5.4.6 notes that densities should be greatly reduced and that development should comprise low-rise dwellings on relatively large plots.

The Map on page 22 in respect of the Land Use and Density Rationale, section 4.6 identifies the site as comprising Lower, Mid and Upper slope lands. The Strategy Map on page 33 appears to describe the site as Mid Slope.

Section 6 sets out the Phasing Strategy, which allows for a quantum of development to commence in each phase after key outcomes have been achieved. The strategy provides for a phased roll out of community and crèche floorspace rather than frontloading such floorspace as per the original permission for the Stocking Wood neighbourhood/community centre.

Appendix sets out the LAP objectives, including:

- Objective GI19: Compliance with County Council Development Plan policy on Steep Sites and avoiding the need for intrusive engineered solutions such as cut and filled platforms, embankments or retaining walls.

- Objective GI20: Proposals for development on steep sites shall gently ascend the contours with unique design solutions such as split-level housing where multiple storey housing is permissible.
- Objective GI30: Development along and near the southern boundary of the Plan Lands shall include for a continuous and linked green buffer to the Dublin Mountains.
- Objective GI33: Public open space shall be provided at 20% of development sites on the Lower and Mid Slope Lands and 30% on the Upper Slope Lands.
- Objective LUD1: Densities shall accord with Table 5.4 and Figure 5.3.
- Objective LUD3: The dwelling mix shall yield a minimum of 90% or more houses. Apartment and duplex units are not permissible on the Upper Slopes.
- Objective LUD5: Residential development on the Lower Slope Lands shall consist of medium to low density (32 – 38 / ha) terraced and semi-detached housing. New development adjacent to existing housing shall be designed sensitively to protect existing residential amenity.
- Objective LUD6: Residential development within the Mid Slope Lands shall consist of low density (22 – 28 / Ha) comprising semi-detached and terraced housing of no more than 2 storeys. Additional split-level floors may be justified on the basis of topography, are sensitively incorporated into the slope and do not increase the height of dwellings from street level to more than 2 storeys.
- Objective LUD7: Residential development within the Upper Slope Lands shall consist of very low density (12 – 18 / ha) development comprising single-storey detached and semi-detached housing. Additional split-level floors may be justified on the basis of topography, are sensitively incorporated into the slope and do not increase the height of dwellings to more than 1 storey from street level and by no more than 2 storeys from the side and rear. Densities adjacent to the green buffer along the southern fringe should be provided at the lower end of the scale (approx. 12 dwellings per hectare).
- Objective LUD8: All residential development shall provide community floorspace at a rate of 3m<sup>2</sup> / 10 dwellings (excluding childcare), grouped in community

facilities and close to or within local shopping facilities/centres within the Plan Lands.

- Objective LUD11: Applications for 100 or more dwellings shall be accompanied by a report identifying the demand for school places likely to be generated and the capacity of schools in the vicinity to cater for such demand.
- Objective BF3: Block lengths within the Mid Slope Lands should be no more than 100 metres and no more than 120 metres within the Upper Slope Lands.
- Objective BF8: 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.

#### 6.4. Applicant's Statement of Consistency

In accordance with the requirements of Section 8(1)(a)(iv) of the 2016 Act, a Statement of Consistency with local and national policy has been submitted with the application. Furthermore, a statement indicating why permission should be granted, notwithstanding that the proposed development materially contravenes the development plan other than in relation to the zoning of land, having regard to section 37(2)(b) of the Act of 2000, has been submitted. That statement addresses contravention of the LAP in relation to Building Heights, Density, Dwelling Mix and Phasing requirements.

The statement of consistency considers compliance with the following national, regional strategic planning policy and guidance documents and local policy documents:

- Project Ireland 2040 - National Planning Framework (2018).
- National Development Plan (2018 – 2027)
- Eastern and Midlands Regional Spatial Economic Strategy (2019).
- Urban Development and Building Heights Guidelines for Planning Authorities (2018)
- Sustainable Urban Housing: Design Standards for New Apartments (2020).

- Design Manual for Urban Roads and Streets (DMURS) (2013).
- The Planning System and Flood Risk Management (2009).
- Sustainable Residential Development in Urban Areas (2009).
- Urban Design Manual: A Best Practice Guide (2009).
- Rebuilding Ireland; Action Plan for Housing and Homelessness (2016)
- Part V of the Planning and Development Act 2000: Guidelines (2017).
- Ballycullen-Oldcourt Local Area Plan 2014, as Extended
- South County Dublin Development Plan 2016-2022.

The Statement make the following points:

- The development of this greenfield, strategically located and residentially zoned site is consistent with the NPF. It responds to the site's characteristics in accordance with National Policy Objective 33, contributes to compact growth and provides residential units for the area.
- The development complies with the NDP, facilitating compact growth in an urban area on zoned land, with a high frequency peak bus service. Bus Connects proposes significant public transport improvements for the area.
- The design, density and building heights sensitively respond to the site's character and topography, in accordance with the NDP aim of consolidation.
- The residential development of zoned lands in 'Dublin City & Suburbs' within the Metropolitan Area is consistent with the settlement strategy of the *RSES* and the principle of compact and sustainable growth within the built-up area.
- The MASP further supports the consolidation of Dublin City and Suburbs.
- The development meets the criteria set out in section 3.2 of the Urban Development and Building Height Guidelines.
- In accordance with the *Sustainable Urban Housing: Design Standards for New Apartments*, the site meets the criteria for Central and /or Accessible Locations and or Intermediate Urban Location due to its proximity to the White Pines Retail centre and high frequency bus services.
  - Such locations are appropriate for densities >45/ha.
  - Apartment design meets the requirements of the guidelines.
  - The guideline requirements in respect of BTR development are met.

- The development will provide tenant amenity space in Block. Apartments are larger than required and the level of tenant amenity space is appropriate.
- A community building c. 552-sq m is proposed on the site of the proposed White Pines East SHD, to satisfy the phasing requirements of the LAP.
- SPPR8 states that no restrictions on dwelling mix shall apply to BTR schemes.
- The wider masterplan development provides for a mix of dwelling types.
- Parking provision is significantly below development plan standards in accordance with SPPR8.
- The DMURS Design Statement confirms that the scheme is consistent with the principals and guidance outlined in DMURS.
- A Site-Specific Flood Risk Assessment is submitted in accordance with provisions of the Planning System and Flood Risk Management Guidelines.
- The EIAR includes a comprehensive assessment in respect of, inter alia, Water, Land Use and Interactions.
- This residential development on zoned lands, at an appropriate density, in line with existing and emerging built form, with enhanced internal and external amenity spaces is consistent with the Sustainable Residential Development in Urban Areas Guidelines and complies with the criteria identified in the Urban Design Manual.
- The net density of 52 / ha is consistent with the Guidelines for greenfield lands close to existing public transport corridors.
- Public open space represents 45% of the total site area.
- The layout is legible and clear in design, character and treatment.
- The development is consistent with the objectives of Rebuilding Ireland.
- The development is consistent Part V of the Planning and Development Act 2000: Guidelines (2017)
  - The Part V obligations have already been met in accordance with the previous planning application (SD04A/0393/ ABP Ref. PL06S.212191).
  - Under the 2004 permission, 100 no. Part V homes were transferred to SDCC within Phase 1, which was 44.2 no. units in excess of requirements.

- Later phases of that permission were never implemented and this excess provision has been set against the applications at White Pines North and White Pines South, as agreed with the County Council.

#### 6.4.1. Local Planning Policy:

- The development is consistent with the development plan Core Strategy and Settlement Strategy and the BOLAP 2014
- The development will meet strategic objectives, meeting projected housing needs in this designated 'Consolidation Area within the Gateway'.
- The development accords with the Development Plan and LAP zoning objective.
- Part V obligations have already been satisfied.
- The scheme has been developed in compliance with Chapter 11 of the Development Plan and Part L of the Building Regulations.
- The density of c. 52 / ha materially contravenes the development plan and LAP.
- The development will contribute to the residential mix within the wider area and facilitate a range of household sizes. The proposed mix of units will materially contravene the provisions of the Local Area Plan.
- The site comprises lower, mid and upper slope lands. The LAP requires a minimum of 20-30% of the site to be provided as open space.
- Landscaped open space is c. 45% of the overall site area. Additional open space is also provided throughout the development. Excluding open space under the powerlines, open space still represents c. 37% of the site (sic).
- Private open space provision complies with minimum area requirements.
- 98 no. car parking spaces are provided (0.86 no. spaces / unit). Cycle parking provision of 238 no. spaces exceeds the Development Plan / LAP requirements.
- Internal tenant amenity space is provided, while a community building c. 552 sq m is proposed in White Pines East SHD, to satisfy LAP phasing requirements.
- A Community Infrastructure Audit, Childcare Demand Assessment and School Demand Assessment are submitted.
- In terms of privacy and security, the design maximises passive surveillance and animation of public spaces.

- Adequate separation distances are achieved, with privacy strips providing screening for ground floor apartments.
- Adjoining residential amenities will not negatively impacted.
- Design measures will ensure compliance with development plan Energy and Sustainability Policies. An Energy and Sustainability Report is submitted.
- Confirmation of design acceptance has been received from Irish Water who raise no objection to the proposals.
- The surface water drainage network accords with SUDS principles.
- Separation in excess of 35m is achieved between Block A and existing 2-storey dwellings at White Pines North and South, in accordance with Housing Policy 9.
- In respect of the LAP phasing strategy, the statement notes that:
  - Phase 1 has been satisfied by development in White Pines North and South.
  - Phase 2 requires completion of the Neighbourhood and Community Centre. Construction has recently commenced on the adjoining retail site.
  - Phases 2 and 3 are fulfilled by the permitted SHD application ABP- at White Pines East. The proposed development therefore comprises part of Phase 4.
  - The overall number of dwelling units proposed within the White Pines Masterplan area generally accords with the LAP.
  - The Community Infrastructure Audit, School Needs Assessment and Childcare Demand Assessment confirm there is sufficient amenity capacity in the locality to cater for the increased demands.
  - While upgrade of the adjacent roundabout junction is not a requirement of the roads authority this is addressed in the Material Contravention Statement.
  - Such upgrade was not required in granting permission for White Pines North or South.
  - Proposed White Pines East SHD provides for a 552-sq m community building.
  - The Neighbourhood and Community Centre will be in place well in advance of the completion of this application, to meet the Phasing Requirement.
  - Phase 3 requires the 'completion of landscaping of Green Buffer with tracks and trails along southern boundary with mountains.
  - The development will provide a network of open space to provide meaningful linkages to adjoining sites and generally achieves the phasing requirement.
  - Connections to any future development to the east could be facilitated.

- Development in White Pines South provides for connections to lands to the west, although such lands are outside the applicant's control.
- Phase 4 requires the commencement of construction of a primary school.
- The two designated school sites are vacant and works have not yet commenced thereon. The proposed development therefore materially contravenes the Phasing Requirement of the LAP.
- A separate School Needs Assessment has been submitted.
- The development is broadly consistent with the LAP phasing requirements.

#### 6.4.2. **Material Contravention Statement**

The statement addresses the material contravention of the policies of the South Dublin County Development Plan 2016-22 and the Ballycullen-Oldcourt LAP 2014, in terms of Building Height, Density, Dwelling Mix and LAP Phasing Requirement.

- **Building Height:** The proposed development provides 1 no. 4 - 6 storey apartment block and 5 no. 3 storey duplex buildings. This materially contravenes Policy H9 Objective 4 of the Development Plan, and Objective LUD8 of the LAP and BF8.
- **Density:** The proposed density of c. 52 dwellings per hectare materially contravenes Policy H8, Objectives 5 and 6 of the Development Plan, and Objectives LUD 1 and LUD 5, 6 & 7 of the LAP.
- **Dwelling Mix:** The proposed dwelling mix is contrary to LAP Objective LUD3 which requires a minimum of 90% or more houses.
- **Local Area Plan Phasing Requirement:** The Phasing requirements for Phases 1 – 4 have not all been provided for.

#### National Planning Context – Justification for Material Contravention

- The NPF encourages appropriate forms of compact development in order to make the most efficient use of zoned urban land and seeks to ensure future growth of the city occurs within its Metropolitan limits.



- The development maximises residential density whilst protecting the amenity of existing and proposed uses in the area. White Pines Retail will provide the type of compact, vibrant and sustainable urban community encouraged by the NPF.
- The wider White Pines Masterplan site provides a broad mix of dwelling types and sizes to facilitate a diverse population group.
- The NPF acknowledges that prescriptive planning standards, such as building height limits lack flexibility.
- The proposed building heights are appropriate for the site, with no undue impacts on the surrounding environment or neighbouring buildings.
- National policy directs that residential density and height must be increased in order to accommodate population growth and counteract urban sprawl.
- The densities identified in the LAP do not comply with National policy and would result in underutilisation of a central / accessible site.
- The site is served by public transport and there are objectives for significant improvements to services in this area.
- Assessments of the carrying capacity of surrounding community facilities to support the development have been carried out. Construction of the retail centre has commenced.
- The policies and objectives of the RSES, which emphasises compact sustainable growth, support such development.
- The LAP conflicts with RSES objectives for higher density development.
- In accordance with the Sustainable Residential Development in Urban Areas Guidelines, this is regarded as an *Infill Residential Development* site.
- The scale of the development is appropriate, having regard to:
  - National policy promoting higher densities and consolidation in Dublin.
  - Proximity to existing and planned high frequency public transport connections.
  - The high-quality architecture with generous public open space and amenity.
  - The range of commercial, social, community uses in the area.
  - Infrastructural capacities in the area.
- The Apartment Design Guidelines build upon the provisions of the NPF in moving away from blanket restrictions on heights in certain locations.

- They identify locations suitable for higher density developments that may wholly comprise apartments. The site is regarded as an Intermediate Urban Location appropriate for apartment developments with densities > 45 units / ha.
- The density provisions of the LAP conflict with the Guidelines in this regard.
- SPPR 8 provides that BTR development should not be subject to restrictions on dwelling mix.
- The statement considers the development in the context of the criteria set out in the Urban Development and Building Height Guidelines.

At the scale of the relevant city/town

- The site benefits from good high frequency public transport connections.
- The design has been given careful consideration in the context of the wider White Pines Masterplan site. Landscaping is designed to tie into the existing areas of open space and materials choice.
- The scale of development is acceptable in the context of the site's accessible location, public transport connections and the scale of adjoining developments.
- Block A will act as a local landmark, providing a distinct development that will tie into the emerging commercial development at White Pines Retail and assist in local wayfinding.
- There is precedent for taller buildings at key roundabout locations in the area.

At the scale of the district/neighbourhood/street

- The development is in accordance with the emerging form of development surrounding the site.
- Block A will create a sense of place and a distinct location, that will tie into the emerging Retail and Creche provision at White Pines Retail.
- Improved public realm will create a people friendly environment of streets and spaces, and internal residential amenity space.
- Landscaping and amenity spaces, including play spaces, connect to the wider White Pines masterplan site.
- The design avoids long, uninterrupted walls of building and a range of façade materials, provides a distinct high-quality appearance that integrates with surrounding streetscape.

- The landscape layout enhances the urban design context for public spaces and key thoroughfares. A Flood Risk Assessment has been undertaken.
- The development will make a positive contribution to the legibility of the area. New pedestrian and vehicular routes open up the site to through-movement and accessibility.
- The development will provide a mixed residential topography and tie into the White Pines Retail development.

At the scale of the site/building

- A Sunlight/ Daylight Assessment is submitted which concludes that all units meet, and in the majority of cases exceed, the Average Daylight recommendations of the BRE Guidelines.

Relevant technical assessments undertaken include an EIAR, AA Screening Report, Architectural Design Statement and Landscape Design Statement.

- The Guidelines confirm that where the above criteria are incorporated into development proposals, the relevant authority shall apply SPPR3.

#### Local Policy Context Justification

##### (i) Building Height

- Proposed building heights materially contravene development plan objective H9 Objective 4 and LAP Objective LUD8.
- Block A (6-storeys) exceeds the blanket restriction of 3-storeys on lower slopes.
- The LAP restrictions on height and density do not accord with National Planning Policy and Guidance, or with County Development Plan Policy 8, Objective 8, which supports higher densities efficient use of zoned lands.
- The Daylight and Sunlight Assessment confirms that no significant impacts arise.
- Building heights respond to the topography of the site.
- The site can accommodate up to 6 no. storeys, without any significant adverse impacts in terms of daylight, sunlight, overlooking or visual impact.
- Large areas of public open space are provided.
- There is a presumption in favour of increased height in the Building Height Guidelines and the development meets the criteria set out in section 3.

- Roundabouts in the wider area are marked by 3-7-storey development, which contribute to the creation of a sense of place and distinctiveness, a key design feature in the Urban Design Manual: A Best Practice Guide (2009).
- Areas where there has been no increase in heights are monotonous and lack a sense of place.
- The scale and height of Block A ensures it ties in with White Pines Retail development.
- Permitted developments at Scholarstown Road SHD (ABP-305878-19) and Edmonstown Road SHD (ABP-305946-19) provide for heights of 4-7-storeys.

(ii) Density

- The site includes Lower, Middle and Upper Slope lands for which the LAP identifies different densities.
- The proposed density is c. 52 dwellings per hectare. The LAP requirements would provide for only 42 - 56 dwellings on the site (19–25 units / ha), which is inappropriate for a 'central/accessible' / 'intermediate urban' site.
- The LAP requirements are not in accordance with development plan Policy H8, Objective 6, which identifies densities of 35-50 / ha.
- This site represents the final phase of the White Pines development and should be assessed as part of the wider Masterplan site.
- The overall density for the masterplan area would be 45 / per Ha, which is appropriate and sustainable for an 'intermediate urban location.
- National Planning Policy provides sufficient justification for such density. The LAP does not align with National Policy or with the county development plan.
- Scholarstown Road SHD (ABP-305878-19) was approved with a residential density of c. 110 units per ha and Edmonstown Road SHD (ABP-305946-19) was approved with a residential density of c. 147 units per ha.
- The accepted justification for both residential densities was based in part on their proximity to the same bus route which runs adjacent to the subject site.

(iii) Dwelling Mix

- LAP Objective LUD3 seeks a dwelling mix of 90% or more houses.

- The proposed dwelling mix provides greater variety and choice in an area currently dominated by three-bed and four-bed detached and semi-detached housing and is in line with current demographic trends.
- Planned and permitted development in the White Pines area provides an appropriate mix of 310 no. (49%) houses/duplex units and 326 no. (51%) apartments.
- SPPR 8 (i) states that no restrictions on dwelling mix and all other requirements of these Guidelines shall apply.

#### (iv) Phasing Strategy

The development comprises part of Phase Four, as defined in the LAP. Outstanding requirements of Phases 1 - 3 are addressed below:

Phase 1: Four-arm junction with crossing facilities.

- This roundabout has previously been upgraded and signalisation of this junction is no longer required by the planning authority at this time.
- White Pines North and South have previously been granted permission in contravention of this requirement.

Phase 2 Completion of the Neighbourhood and Community Centre.

- Construction work has commenced on the retail unit and creche building, known as White Pines Retail, permitted under PA Ref. SD19A/0345 & SD20A/0322).
- The retail unit and creche will likely be in operation in advance of the commencement of construction / occupation of this development.
- A 552-sq m community centre space to serve the area is proposed as part of the current White Pines East SHD application, ABP-309836-21, following consultations with the PA to satisfy the LAP phasing requirements.
- This will be constructed in tandem with the residential units.

Phase 3: Completion of landscaping of Green Buffer with tracks and trails along southern boundary with mountains.

- Tracks and Trails shown in the LAP are indicative only.
- The development will provide meaningful open space and a network of spaces, with connections to existing and future development in the wider area.

- A Green Buffer with tracks and trails is provided along northern Masterplan boundary with the M50, to provide connections to the wider area.
- Future connections to the east can be provided if required.
- While sufficient space is provided on the southern boundary of the 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 within the applicant's lands.
- There are no footpaths or cycle lanes on Stocking Lane south of the masterplan site into which to link safely.
- As there are no destination locations south of the Masterplan Site, provision of tracks and trails in this area would serve no purpose for the local community.
- The landscape Masterplan Design offers a more sustainable option for the provision of tracks and trails on the eastern LAP lands.
- Lands to the east and south are currently zoned for agricultural use, which provides a significant green buffer.

Phase 4: Commencement of construction of the designated Primary School

Demonstrate compliance with the road improvements and traffic requirements of the Accessibility and Movement Strategy and all other relevant traffic related plans, guidelines and studies.

- A Schools Demand Assessment has been submitted.
- The overall White Pines Masterplan area will give rise to an estimated cumulative demand for 511 no. school spaces (311 No. primary and 200 No. post-primary).
- School enrolments are likely to fall in coming years.
- The additional demand arising will be absorbed by the existing and planned network of schools currently under construction in the area.
- The proposed development, in the absence of the designated school, would be in line with the proper planning and sustainable development of the area.
- There would no impact on the ability of the Department of Education to provide a school at either of the designated school sites at a future date.

The statement concludes that the proposed development should be considered appropriate for the subject site, due to the sites location adjacent to a public

transportation route and the policies and objectives set out within the Section 28 Guidelines.

## 7.0 Third Party Submissions

A number of observations have been received which are summarised below:

### 7.1. Cllr. Alan Edge

- Infrastructure in this area cannot cope with the demands arising from the number of SHDs which have been permitted.
- Material contravention of the development plan and LAP is not justified.
- The densities and heights contradict the provisions of the LAP.
- The LAP provides for low densities in this elevated, transitional zone and does not provide for apartments or duplex units.
- The plan seeks to avoid abrupt transitions in scale at the edge of land use zones.
- Public transport and road networks are inadequate for this scale of development.
- The Dodder Valley Sewer is operating above capacity, resulting in sewage surcharging into Dodder Valley Park, and cannot serve this scheme.
- The development, and proposed the building heights, would detract from the character and landscape of the receiving environment.

### 7.2. Angela O'Donaghue (and others)

- Contravention of the building height provisions of the development plan and LAP.
- Proposed building heights are inappropriate for this location and topography.
- The density exceeds that provided for in the Sustainable Residential Development in Urban Areas Guidelines.
- It is not appropriate to consider the densities in conjunction with wider White Pines development.
- The development contravenes the phasing strategy of the LAP.
- White Pines South is not connected to mains sewers and network upgrades should be complete in this area.
- The development creates a risk of flooding of adjoining lands.

- There are no schools within walking distance of the site and the LAP requires the phasing of development with schools provision.
- The local childcare network is at capacity and the reported capacity figures are inaccurate.
- Childcare, school and community facilities should be provided for existing residents before further development is permitted.
- The traffic impact assessment fails to take account of adjoining and permitted development and the adjacent retail centre.
- Existing bus services are at capacity. Bus Connects proposals have not commenced.
- There is a lack of quality open space and green infrastructure.
- There is a lack of habitat and wildlife surveys.
- There will be impacts on sunlight to White Pines North.

### 7.3. Ballyboden Tidy Towns Group

- This location is not appropriate for the scale, density, height and layout proposed.
- The development will be injurious to adjoining residential amenity and lacks access to high frequency public transport.
- The site is not well connected in terms of public transport.
- The removal of the hedgerows and trees will result in a net biodiversity loss.
- While the LAP specifies a clearance of 23m from the centre of the powerline, the application refers to a 34m wayleave. This discrepancy is not addressed.
- The development was not identified as BTR at pre-application consultation stage, and this aspect was not considered by the Board.
- No BTR justification statement is provided nor any evidence-based data to support the proposal. This is a significant deficiency.
- There are discrepancies in the application plans, particulars and reports.
- Public notices do not refer to the provision of PV panels or green roof in Block A.
- The application documents are inconsistent with regard to the residential densities proposed.
- Proposed densities exceed that on adjacent sites on the edge of the urban area and are not justified on this highly peripheral site.



- The proposal is contrary to LAP objectives to reduce densities towards the periphery of zoned lands, on Lower, Mid and Upper Slopes.
- Reliance on average densities over the wider White Pine lands is not appropriate.
- The development contravenes the building height provisions of lower, mid and upper slopes (Objective BF8).
- The net densities are not calculated in accordance with the Sustainable Residential Development guidelines. Significant landscape buffer strips should be excluded.
- The site cannot be categorised as an accessible location suitable for increased densities nor increased heights.
- Bus services are deficient and could not be deemed high frequency. Bus Connects proposals have not commenced delivery.
- The site is not located within walking distance of a principal town or urban centre.
- Building heights are excessive and the landmark apartment building is out of scale and at odds with the receiving built environment.
- Failure to comply with section 11.2.7 of the development plan with regard to separation from adjoining housing is not referenced in the Material Contravention Statement.
- Proposed densities will result in over-reliance on the private car.
- Large scale residential developments in this area will negatively impact on residential amenity and existing services.
- The applicant has misapplied the Building Height Guidelines.
- Proximity to Stocking Avenue will impact on the residential amenities of Block A.
- Noise mitigation measures are not adequately identified in the application.
- Site topography results in steep transitions of scale and height between blocks, with overbearing and overlooking impacts between duplex blocks.
- The constraints of Stocking Avenue and power lines result in a poor quality of layout. Pylons and power lines will be highly dominant and visually obtrusive.
- The wayleave corridor is unsuitable as amenity space.
- Public notices fail to identify that 3 no. vehicular entrances are proposed from White Pines Dale, which impact on the value of the open space.
- This arrangement will create traffic conflicts and impacts which are not assessed.

- The car parking layout is contrary to DMURS and will lead to a car dominated environment. Footpath widths are deficient.
- Parking provision is deficient for this location, which is incorrectly categorised as an “intermediate urban location”, resulting in over-spill parking on adjoining roads.
- The TTA should have assessed key junctions on the wider road network.
- Traffic impacts and congestion cannot be appropriately mitigated.
- There are significant inconsistencies in the level of bicycle parking identified in planning documentation. The public notices are required to describe the nature and extent of development proposed and identify deficiencies in bicycle parking.
- There are issues with the usability and suitability of significant parts of proposed open space and amenity spaces.
- The removal of existing hedgerows and trees will result in a net biodiversity loss.
- There is a failure to adequately transition from the urban to the rural RU zone.
- Provision of play areas adjoining a busy road and roundabout are a concern.
- Open space along the Stocking Avenue boundary will not constitute safe, attractive, functional outdoor amenity areas, and no buffer is provided to RU zoned lands. There are no noise barrier proposals along this frontage.
- The southwestern open space raises safety concerns regarding proximity to pylons and access roads.
- Localised flooding events in the area are not referenced in the SSFRA.
- Irish Water previously noted that a connection would only become available following network upgrades and extension up to the proposed development site.
- White Pines South is not connected to the public sewerage network and sewage is currently tankered off the site on a regular basis.
- The development is premature pending the upgrading of the sewer network.
- Inconsistencies in the application documentation, include:
  - Inconsistency with the powerline wayleave identified in the LAP.
  - Failure to identify the wayleave in yellow on the site location map, contrary to art. 22(2)(b).
  - The Public notices and the Design Statement are inconsistent with regard to the area of tenant amenities in Block A.
  - The address, site area and description of development differ between the application form and public notices.

- The EIAR is inconsistent in respect of description of development, site area, bicycle parking provision, vehicular access.
- The EIAR is deficient, in terms of the timing of bat surveys and the adequacy of bird surveys.
- The correctness and robustness of the Appropriate Assessment are questioned given the sites proximity to Natura 2000 sites within the Dublin Mountains

#### 7.4. Francis Noel Duffy TD

- The SHD process has failed to deliver housing development and lacks meaningful public consultation.
- Material contraventions of local development plans is an attack on the sustainable, consultative and democratic planning process.
- The density of development is of concern.
- The development will obliterate the protected view and mountain skyline of the Dublin Mountains.
- The sewerage system cannot cope with the level of permitted development in the area. An adjoining sewage holding tank requires regular emptying by tanker.
- This development will put pressure on existing local public transport with no confirmation of increased services to deal with current demand.
- Local road infrastructure is already at capacity. This development will result in more congestion to the area.

#### 7.5. White Pines North Residents Group

- A density of 52 / ha exceeds the recommendations of the Sustainable Residential Development in Urban Areas 2009, of 50 / per hectare.
- Justifying proposed densities by assessing the proposal as part of the wider White Pines “Masterplan” area is not appropriate.
- The density contravenes the 2014 LAP for development on these slopes.
- The overall masterplan area would still exceed the recommended densities for lower slopes. The LAP sought to avoid higher densities on upper slopes.
- The LAP requires that heights in the area not exceed 3-storeys.

- The development will overshadow properties in White Pines North. Clarification is required whether the Daylight Sunlight report considers the effect of topography.
- The report fails to consider the impacts on the White Pines East, which is currently before the Board, demonstrating a lack of joint planning.
- The overland flow route, via Stocking Avenue, creates a risk of pluvial flooding of the lower-level development at White Pines North. Several flooding events have been experienced in White Pines North in Winter 2021.
- The Local Area Plan identified the area in question as being prone to flooding.
- The flood risk assessment does not appear to have been addressed possible overland flow from adjoining lands to the east.
- Filter drains to the rear of proposed dwellings, to mitigate against overland flow are identified, but their design and capacity is not included in the flood risk assessment or drainage report.
- It is not clear that the surface water drainage network has capacity to accommodate additional overland flows from adjoining lands.
- White Pines South is currently the only estate in South Dublin not connected to the main sewerage network, with pumping and tankering out of sewage weekly, with impacts on residential amenity.
- While network upgrade works are due for completion in 2022 a further extension of 520m is required to connect the site, which is not in the current Irish Water Investment plan. The application contains no commitment to fund these works.
- No further development should be allowed until the network capacity issues have been resolved.
- The assessment of childcare facilities does not accurately reflect the lack of capacity in facilities in the surrounding area and the omission of childcare facilities is not therefore justified.
- The development contravenes the LAP phasing strategy with regard to schools.
- The application misrepresents the capacity of schools local to / within walking distance of the site.
- The lack of schools within walking distance results in increased car journeys.
- The proposed development will further contribute to traffic in the area, with queues to Stocking Lane roundabout.

- The walking and cycle times to amenities identified in the application are inaccurate and inconsistent, and intended to mislead.
- The current bus service (15B) is at capacity and there are no dates for completion of Bus Connects Route 85 to this location.
- The wayleave of 23m from the centre of the power line set in the LAP has not been observed. This constitutes a material contravention of the LAP, which is not addressed in the material contravention statement.
- 6-storey Block A will result in overlooking of properties in White Pines North.
- While 37% of open space is cited in the application, no assessment of usable open space is provided, particularly given the topography of the site.

## 8.0 Planning Authority Submission

8.1. In accordance with Section 8(5)(a) and (b) of the Act, the Chief Executive's report was received on 27<sup>th</sup> July 2021, which includes:

- A summary of the points raised in submissions received on the application.
- A summary of the views of the relevant elected members.
- The Chief Executive's view on the effects of the proposed development.
- The Planning Authority's opinion as to whether the development would be consistent with the relevant objectives of the development plan or local area plan, and a recommendation as to whether permission should be granted or refused.
- Recommended conditions of permission.

8.2. Issues raised by the elected members are identified as follows:

- Interaction with the overhead power lines.
- ABP should consider cumulative permitted and proposed developments in this area. There are excessive level of SHD development in this area.
- Lack of a cumulative visual impact assessment with other phases of White Pines.
- Lack of public transport capacity in this area.
- Traffic impacts.

- Concern regarding BTR at this location. One-bed build-to-rent units are not conducive to building communities.
- There are deficiencies in community infrastructure.
- Lack of compliance with the LAP.
- Inaccuracies in the address / naming.
- The distribution of social housing across the development.
- Overlooking of adjoining development.
- The height and density are excessive and constitute overdevelopment of the site.
- Level of provision for people with impaired mobility needs.
- Provision for employment is needed.
- The proposal is contrary to national policy on transport and environment.
- Car management is questionable. There is a requirement for more bike and electric vehicle parking.
- The development renders the LAP null and void, particularly for Upper Slopes.
- The development is out of keeping surrounding development.
- Deficiencies in open space / public park.
- Pocket parks may block light.
- Deficiencies in the number of dual aspect apartments.

### 8.3. **Assessment:**

#### Zoning and Council Policy

- The lands are zoned 'RES-N,' 'to provide for new residential communities in accordance with approved area plans.' Residential development and community centre use is permitted in principle.
- The site is located within the Ballycullen – Oldcourt Local Area Plan, and the zoning objective is that development be provided in accordance the LAP.

#### Density

- A density of 52.5 units/ha is not sustainable in an area poorly served by public transport and not proximate to any major amenity or centre of employment.
- This peripheral location requires a high ratio of car parking spaces and topography cannot support underground car parking.

- The number of parking spaces required cannot be accommodated at surface level without dominating streetscapes and laid out contrary to DMURS.
- Topography prevents the provision of quality communal amenity space.
- The LAP identifies net densities of 32 – 38 / ha on lower slopes, of 22-28 / ha on mid slopes and 12-18 /ha on upper slope lands.
- The proposed density materially contravenes the provisions of the LAP.
- While the LAP was adopted prior to national guidelines, the carefully considered densities and heights reflect the requirements of the guidelines.
- This is a 'peripheral and/or less accessible urban location' as described in the Apartment Guidelines suitable for densities of typically less than 45 units/ha.
- The location could be described as edge of peri-urban development, neither within a town nor a city.
- Poor transport accessibility, capacity and connectivity make this location unsustainable for high-density development and is not supported by the NPF National Strategic Objectives of Ministerial Guidelines.
- Circular NRUP 02/2021 promotes a graduated, responsive, tailored approach to residential densities in Peripheral and / or Less Accessible Urban Locations.
- The circular validates and supports the tailored density approach of the LAP.
- Public transport service is difficult due to the peripheral location, dependent on bridges across the M50 and River Dodder. Topography, environment and distances do not encourage sustainable modes.
- Higher density development would be car dependent and the LAP densities are an appropriate response to its context.

#### Height

- LAP Objective BF8 sets a limit of no more than three storeys on the Lower Slope Lands, two storeys on the mid slope lands and one storey on the upper slopes.
- Proposed heights are a significant concern and materially contravene the LAP.
- Duplex blocks would read as taller than three storeys from lower elevations.
- The relationship between Blocks C1 and C2 is inappropriate, resulting in issues of overlooking and loss of privacy.

- The development is contrary to the criteria of section 3.2 and SPPR 3 of the Building Height Guidelines, as well as provisions relating to suburban / edge locations.
- The development does not respond to its context, is out of character with neighbouring sites, does not improve legibility, and is not located in accordance with 3.6 of the guidelines.
- The layout is dominated by surface car parking. The car park / street serving Block A lacks urban definition.
- AS additional height is not justified under the Building Height Guidelines, the relevant standard is therefore the LAP.

#### Phasing and LAP objectives

- The applicant has acknowledged the phasing requirements in the LAP.
- The requirements of Phase 1 are met in adjoining development. The neighbourhood centre and creche is under construction and the community centre is proposed under SHD ABP-309836-21.
- The applicant has provided a Schools Needs Assessment.
- Development or occupation of units should be contingent on the delivery of the required school. The Planning Authority recently permitted a temporary post-primary school within the LAP lands on a designated school site.

#### Development Mix

- The LAP does not refer to Build-to-Rent type development.
- Under SHD ABP-305725-19, permission was refused for a build-to-rent development on the basis of the inadequate residential facilities.
- The proposed development provides a single lounge and multipurpose room of 110/123sq.m to serve all 114 'build-to-rent' units. Its peripheral location, in Block A, is likely to read as a communal facility for residents of that block only.
- The level of provision does not meet the requirements of the apartment Design Guidelines and no facilities under SPPR7(b)(i) are provided.
- The proposed unit mix is contrary to Objective LUD3 which requires 90% of units to be own-door houses.
- The justifiable LAP restrictions on density and height require a certain character of development, of mostly own-door, 1- and 2-storey housing.



- A Part V condition should be attached in the event of a grant of permission.

#### Non-Residential uses

- The Schools Demand Assessment does not identify schools in walking or cycling distance of the site.
- Analysis of future school demand should be based on cumulative impact with other developments in the area.
- As a phasing requirement, school delivery should be in tandem with development / population increase. A temporary post primary school within the LAP lands on a designated school site was recently permitted.
- A childcare facility has been permitted at the local centre. The Board will need to satisfy itself as to the accuracy of the childcare demand assessment.
- The Childcare Demand Assessment is not a sound basis for avoiding the need for additional childcare spaces. The non-provision of childcare facilities would be contrary to the Guidelines for Planning Authorities on Childcare Facilities.

#### Layout and Design

- Concerns expressed at pre-application consultation stage remain valid.
- The relationship between Blocks C1 and C2 is problematic.
- Sharp changes in levels render the 'public open space' of limited amenity value.
- Pedestrian pathways are necessarily stepped due to the gradients, and the level of accessibility for residents of varying mobility is unclear.
- The use of retaining walls in the development is not acceptable, particularly adjoining Block A.
- The layout fails to respond appropriately to the topography and context of the site resulting in poor residential amenity and visual impact.
- The quantum and layout of on-street parking results in a car-dominated urban environment.

#### Residential Amenity

- All units appear to meet the standards of the Apartment Design Guidelines. Storage in some units should be sub-divided into smaller spaces.
- A number of north-facing single aspect units in Block A do not accord with the 2020 guidelines.

- Notwithstanding contravention of the provisions of the LAP if the development is deemed acceptable, the proposed orientation of Block A may be unavoidable.

#### Landscaping, Public Realm and Ecology

- There is no communal open space, as required in the Board opinion and contrary to the Apartment Design Guidelines.
- Private residential amenity space appears to be adequate. Balcony depth should meet minimum requirements.
- Public open space exceeds the development plan quantum requirement. The amenity spaces are not informally defensible or formally delineated as communal amenity space.
- The Public Realm Department recommend conditions.
- Build-to-Rent development should provide quality shared amenities and social spaces for residents, distinct from public spaces.
- Some areas of public open space are of little utility value due to topography and accessibility.
- The ecological recommendations of the Department of Housing, Local Government and Heritage are noted.

#### Access, Transport and Parking

- The Roads Department did not identify any traffic or transportation issues preventing a grant of planning permission.
- The width and alignment of the emergency access to Stocking Avenue requires revision.
- The Roads Department is satisfied with the parking allocation of 98 spaces, subject to some revisions. Similarly, the level of bicycle parking is satisfactory.

#### Water, Drainage and Flooding

- The conditions recommended by the Drainage Dept are noted.
- In relation to flood risk and observers' comments, the applicant is noted to be fulfilling their obligations through the provision of surface water infrastructure.
- The submission of a Construction Environmental Management Plan can be conditioned.

#### Other

- The recommendations of the Department of Housing, Local Government and Heritage and of the Department of Defence regarding are noted.
- It is the responsibility of the Board to screen the development for appropriate assessment and Environmental Impact Assessment.

#### 8.4. **Conclusion:**

The proposed development would materially contravene the Ballycullen-Oldcourt Local Area Plan on grounds of building height, density and unit mix. National policy or guidelines, in particular the recent circular NRUP 02/21, would not support the development.

There are also concerns in relation to layout, visual impact, overlooking, dominance of street level parking, density, height, design and topography, provision of residential amenities, provision of communal amenity space, and provision of facilities for residents in a build to rent scheme.

#### 8.5. **Recommendation:**

That permission be refused for the following (3 no.) reasons:

(1) Material Contravention of the Ballycullen-Oldcourt LAP and the South Dublin County Development Plan (2016-2022) in relation to building heights, density and dwelling mix. The proposed development would be a material contravention of specific objectives in the Ballycullen-Oldcourt Local Area Plan 2012, these being:

- Objective LUD1 (Density)
- Objective LUD3 (Unit Mix)
- Objective LUD4 (Unit Mix and Legibility)
- Objective LUD5 (Density)
- Objective LUD6 (Density)
- Objective LUD7 (Density)
- Objective BF7 (Visual Impact)
- Objective BF8 (Building Height)

(2) Due to the site's relative inaccessibility by public transport and poor connection to amenities such as schools, this is not considered under national guidance to be a suitable site for higher density or taller development.

The subject site is not a suitable site for such development under Objectives 27 and 33 of the National Planning Framework.

Additionally, the development does not comply with the criteria in section 3.2 of the 'Urban Development and Building Heights – Guidelines for Planning Authorities' (2019) for justification of additional height above LAP standards, nor does it comply with criteria under sections 3.4 – 3.8 for inclusion of buildings above 4 storeys on an edge-of-city site. The conditions for additional height as described in SPPR 3 or SPPR 4 are therefore not met.

Additionally, the guidance under departmental circular NRUP 02/2021 reinforces the Planning Authority's approach to density, expressed through the LAP, namely that lower densities in peripheral, relatively inaccessible areas such as this, are more sustainable and should be supported.

The resulting design does not respond to the natural and built context and would be detrimental to the urban and rural landscapes it addresses, and does not represent a graduated and responsive, tailored approach to residential density in a peripheral and less accessible location.

The proposed development is therefore contrary to national government policy, s.28 Ministerial guidelines. There is no justification for material contravention of the Local Area Plan and the South Dublin County Development Plan 2016 – 2022, and the development would be contrary to the proper planning and sustainable development of the county and the city.

(3) The proposal, by means of:

- the poor useability 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 excessive amount of surface car parking that would dominate large parts of the site (adequate parking cannot be provided sub-surface, an indicator that the proposed development is overdevelopment).
- the use of major retaining walls.
- the overlooking, lack of privacy and overbearing visual impact between residential blocks within the scheme.
- inadequate provision of residential support facilities or residential amenities to discharge the provisions of SPPR 7(b) of the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2020) in relation to Build to Rent development.
- non-provision of clearly delineated communal amenity space in contravention of the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2020).
- non-provision of childcare facilities to be contrary to section 3.3.1 of the Guidelines for Planning Authorities on Childcare Facilities (2001)

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 'RES' land-use zoning objective and the Local Area Plan and would be seriously injurious to adjoining properties in the vicinity and would detract from the proper planning and sustainable development of the area.

#### 8.6. **Conditions:**

In the event of a decision to grant permission for the proposed development, the Chief Executives report identifies 32 no. conditions to attach to such a decision, (I note an error in the identified numbering) including the following:

2. Private Balconies shall meet the minimum dimensions and area requirements provided for in the 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (2020).
4. No dwelling unit shall be occupied until all the services (drainage, water supply, electricity and or other energy supply, public lighting and roads) for each dwelling unit have been completed thereto and are operational.

5. Surface Water drainage design details to be agreed.
6. Road layout details to be agreed, including:
  1. Increase the width of the home zone pavements to over 4.8m. The size of the car parking spaces shall be 5.0m x 2.5m.
  2. Junction radii must be 4.5m on local streets and homezones, and 6.0m off main link streets.
  3. Any surface level cycle parking shall be covered.
  7. 100% of apartment car parking spaces must be provided with electrical ducting and termination points to allow for future charging points, and 10% of the apartment car parking spaces must be provided with electric vehicle charging points initially.
  8. A total of 5% mobility impaired spaces should be provided.
  9. A Mobility Management Plan to be completed within six months of opening.
  10. A public lighting scheme shall be agreed.
  11. A Construction Demolition and Waste Management Plan shall be agreed.
11. A detailed SUDS scheme which meets the objectives of County Council Development Plan 2016-2022 shall be agreed with the Planning Authority.
14. A Mobility Management Plan shall be completed within six months of opening.
24. The ecological mitigation measures proposed within the Environmental Impact Assessment shall be adhered to at all times.
25. The biodiversity measures contained within the Biodiversity Management Plan shall be implemented in full.
26. The mitigation measures contained within the Site-Specific Flood Risk Assessment shall be implemented in full.
27. Archaeological monitoring of sub-surface works.
28. Aviation safety requirements.
29. Site clearance works to take place outside the bird nesting season.
31. Financial Contributions.

The report notes the following internal and external consultations:

- Environmental Services Department: Additional Information required in relation to surface water. No objection in respect of flood risk.
- Housing: No objection, subject to conditions.
- Public Realm: No objection in principle but request FI.
- Roads: No objection, subject to conditions.
- An Taisce: Refusal Recommended.
- Department of Defence: No objection, subject to conditions.
- Dept of Housing, Local Government & Heritage: Conditions recommended in relation to Archaeology and Nature Conservation
- Inland Fisheries Ireland: Conditions Recommended.

## 9.0 Prescribed Bodies

### 9.1. An Taisce

- Transport infrastructure is inadequate for current levels of traffic and the road network is subject to existing levels of congestion.
- Congestion will be exacerbated by other current and future SHD's in this area, particularly at Taylors Lane roundabout.
- There is limited bus lane provision serving this area and access to LUAS services is equally congested.
- Proposed densities exceed those identified in the LAP.
- SPPR 3 of the Building Height Guidelines requires that proposals incorporating increased building height should successfully integrate into / enhance the character and public realm of the area.
- The 6-storey Block "A" does not comply with these criteria, will overshadow adjoining houses and is out of character with the area.
- The reasons for refusing permission at the Goat Bar and Grill (ABP 309553–21) are applicable in this regard.
- Any grant of permission should be conditional on completion of drainage infrastructure upgrades. The application is otherwise premature.

## 9.2. Development Applications Unit:

- Monitoring should be carried out to assess the potential impact on archaeological remains in the area where development is to take place.
- The clearance of existing hedgerows and vegetation from the site should only take place outside the main bird breeding season.

## 9.3. Dept. of Defence

- Operation of cranes during construction should be co-ordinated with Air Corps Air Traffic Services.
- Appropriate bird control measures will need to be taken during construction to mitigate the risk to Air Corps flight operations.

## 9.4. Inland Fisheries Ireland

- Comprehensive surface water management measures must be implemented at construction and operational stage to prevent pollution of local surface waters.
- Regular inspection and maintenance of SUDS infrastructure and the petrol/oil interceptors at operational stage should be a condition of any permission.
- The operational surface water layout should incorporate more soft engineering options such as swales or bio-retention areas, rather than underground attenuation tanks.
- All construction should be in line with a detailed Construction Environmental Management Plan (CEMP), which should identify impacts and mitigating measures and provide a mechanism for compliance with environmental legislation and statutory consents.
- The CEMP should detail and ensure Best Construction Practices including measures to prevent and control the introduction of pollutants and deleterious matter to surface water and to minimise the generation of sediment and silt.
- There should no entry of solids to the surface water system / Dodder catchment.
- Mitigation detailed in the EIAR should be a condition of any permission.
- Local foul and storm water infrastructural capacity should be available.



- Until the upgrade of Ringsend WwTP is commissioned, additional loading to the current plant is premature.

#### 9.5. Irish Water:

- A new connection to the existing water network is feasible without upgrades. Full details to be agreed at a connection application stage.
- In order to accommodate the proposed wastewater connection, upgrade works are required to increase the capacity of the network.
- An upgrade project which will provide the necessary capacity is scheduled to be completed by 2022 (subject to change).
- In addition, a separate network extension of approx. 520m will be required from the upgraded wastewater network to the development site. This extension is not currently on the Irish Water investment plan, the applicant will therefore be required to fund this local upgrade. The applicant will also be responsible for any 3rd party consents required to facilitate this extension.
- The applicant has engaged with Irish Water in respect of design proposals within the site boundary and has been issued a Statement of Design Acceptance.
- Conditions recommended.

#### 9.6. Commission for Energy Regulation:

The application was referred to the Commission for Energy Regulation for comment, however, no submission was received within the relevant period.

### 10.0 **Assessment**

10.1. I have examined the application details and all other documentation on file, including the Chief Executive's report and all of the submissions received in relation to the application, and I have inspected the site, and having regard to the relevant local, regional and national policies and guidance, it is proposed to consider the development under the following broad headings:

- Land Use and Development Principle
- Material Contravention
- Design and Layout
- Residential Amenity
- Daylight and Sunlight
- Community Facilities
- Drainage and Services
- Access and Transportation
- Other Matters Arising

## 10.2. Land Use and Development Principle:

- 10.2.1. The proposed development comprises 114 no. build-to-rent dwelling units and associated development works and meets the definition of Strategic Housing, under section 3 of the 2016 Act, as amended.
- 10.2.2. The application site is zoned RES-N, *To provide for new residential communities in accordance with approved area plans*, in the South Dublin County Development Plan 2016-2022 and the Ballycullen – Oldcourt LAP 2014. The LAP, which was adopted prior to the 2016 County Development Plan, has been extended to 2024. The proposed development of 114 no. residential units on the site complies with the land use objectives for the lands and is acceptable in principle.
- 10.2.3. The site comprises part of a larger development site, granted permission in 2005 under PA ref. SD04A/0393, ABP ref. PL06S.212191 for c. 793 no. dwelling units, and much of those lands have been built out under subsequent amending applications, and it is considered that the principle of residential use on the lands has been established.
- 10.2.4. The planning authority recommendation to refuse permission states that, having regard to identified shortcomings in the design and layout of the proposed development, it would be contrary to the ‘RES’ land-use zoning objective. Notwithstanding that the relevant zoning objective is “RES-N”, I do not concur that the matters raised in that recommendation render the development contrary to the

zoning objective for the lands. The RES-N objective refers to the provision of residential communities in accordance with approved area plans. I acknowledge the identified material contravention of certain provisions of the Ballycullen-Oldcourt LAP, however, I do not consider it to be a reasonable interpretation that compliance with all objectives of the Local Area Plan are required in order to be in compliance with the *zoning* objective for the site. The proposed use is acceptable in principle on the lands and I do not consider therefore that the restriction under s.9(6)(b) of the act of 2016 would apply in this case.

10.2.5. The development comprises 114 no. Build-to-Rent residential units. In the event of a decision to grant permission for the proposed development, the application of a condition of the nature provided for in the *Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities* (May 2021) would not therefore be appropriate.

10.2.6. I note also that Observers have identified a number of inconsistencies in the application documentation, as set out below.

- i. Nature of the application: The development which was subject to consideration at S.5 pre-application consultation stage was not expressly identified as Build-to-Rent residential development and I note observer's comments in this regard.

Section 5(1) of the 2016 Act requires that a prospective applicant, before making any application for permission under s.4(1), enters into consultations with the Board in relation to the proposed strategic housing development. The requirements of Section 5(5) in this regard do not require definitive plans and drawings of the proposed development and the prospective applicant is not required to have a fully formulated plan in place for the proposed development at that stage. Furthermore, tenure is not expressly identified as a matter to be specified in the pre-application consultation documentation. The requirements of the regulations in this regard do not require the same level of detail as would be required in the case of a planning application and it is not a requirement that the description of the development in the documents submitted to the Board at consultation stage must correspond exactly with the description of the

development in the documents ultimately submitted as part of the application under s.4.

In this case, the proposed development comprises a residential development of apartments and duplex units on the same site, provided within six blocks stepping up to the east across the site. The only difference relates to the tenure of the dwelling units and their treatment as Build-to-Rent, as described in section 5.0 of the Apartment Design Guidelines. I do not consider that the change in tenure is so material as to warrant a refusal by the Board to deal with the application, subject to the application being supported by the relevant and appropriate documentation.

- ii. Public notices: I do not regard the omission of reference to the provision of PV panels or green roof in Block A as material or consider that such omission would prejudice third party understanding of the development or their rights to participate in the planning process.

Similarly, I consider that the description in the notices of the access arrangements are sufficient to enable an interested member of the public to access and examine the planning application documentation to determine the precise nature of the such arrangements.

- iii. Bicycle Parking: The public notices and planning application form refer to the provision of 198 no. bicycle parking space within the development. This is consistent with the description of development in chapter 3 of the EIAR. I note however, that the Planning Report, the Statement of Consistency, the Traffic and Transport Assessment Report and Chapter 14 of the EIAR refers to 238 no bicycle parking spaces. Notwithstanding the quoted figures, I can identify 213 no. cycle parking spaces on the submitted drawings. I comment further on cycle parking provision below.

While there are inconsistencies in the application documentation in relation to the number of bicycle parking spaces, I do not regard these as so material as to render the application invalid or to prejudice third party rights or access to information.

- iv. Tenant Amenities: Observers refer to inconsistencies between the public notice and the Architectural Design Statement in relation to the area of tenant amenities in Block A. The public notices refer to 110-sq.m. of ground floor

amenity space, comprising reception area, residents lounge and multi-purpose room. I note that the Architectural Design Statement and Housing Quality Assessment include reference to 123-sq.m. of gross residential amenity floorarea. The submitted floor plans provide for approx. 123-sq.m. of gross residential amenity space including circulation space and WC. This issue appears therefore to arise from the use of either net or gross floor area in the description of the use in application documentation. While lacking clarity somewhat, I do not regard the figures as inaccurate or consider that any third parties would be prejudiced thereby.

- v. Site area: References to different site areas between various application documents can be regarded as an issue of rounding up and is not regarded as a material flaw in the application.
- vi. Site address: There is a minor difference between the site address set out in the application form and the public notices, however, I consider that the address contained in the public notices is sufficient to allow third parties to identify the lands the subject of the application and that parties were not prejudiced in this regard.
- vii. Overhead Powerline Wayleave: The application identifies a requirement for a 34m wayleave / clear zone centred along the overhead powerlines. The 2014 LAP refers to a requirement for a minimum lateral clearance of 23 metres from the centre line on either side of the 110kV lines that traverse the eastern section of the Plan lands (46m wayleave). This reduction is not identified in the application; however, I note that the planning authority have not raised any issues with the development in this regard. The proposed 17m separation from the centre of the line is reflected in existing layout of White Pines Dale to the south of the site, and furthermore I note that significantly reduced separation is provided along the route of this line further to the north. This application was referred to the Commission for Energy Regulation who did not make a submission on the application.

Observers also note that the wayleave associated with the overhead powerline is not identified in yellow on the site location plans as required under article 297(2)(c)(iii) of the regulations. While I note that the pylons on the lands and 34m

wayleave corridor (as described in application documentation) is included on the location map, it is not labelled or coloured as required. It is identified in yellow in maps contained in the Architectural Design Statement (page 38). The presence of the overhead line and the treatment of the wayleave is otherwise described clearly in the application documentation and is evident to any interested party reading those documents or familiar with the site. I do not believe that this technical omission from the site location map has prejudiced any third party in terms of participation in the planning process. I believe that the Board may take the view that this matter is de minimus and not fundamental to the consideration of the application.

### 10.3. **Material Contravention**

The Material Contravention Statement submitted with the application states that the proposed development potentially materially contravenes the South Dublin County Development Plan 2006 and Ballycullen Oldcourt Local Area Plan 2014 in respect of the following provisions:

- a. Building Height
- b. Density
- c. Dwelling Mix
- d. LAP Phasing Requirements

Section 9(6)(c) of the 2016 Act provides that the Board may only grant permission for a strategic housing development that would materially contravene the development plan where the Board considers that, if s.37(2)(b) of the 2000 Act, as amended, were to apply, it would nonetheless grant permission for the proposed development.

In accordance with s.9(3)(a), the Board is required to apply specific planning policy requirements contained in any guidelines issued by the Minister under s.28 of the 2000 Act and S.9(3)(b) further provides that such specific planning policy requirements will apply (to the extent that they are different) instead of the relevant provisions of the Development Plan.

I make the following comments in respect of the criteria identified in S.37(2)(b):

10.3.1. ***Section 37(2)(b)(i) The proposed development is of strategic or national importance.***

The proposed development occurs on zoned lands and provides for residential development in accordance with the land use provisions of the County Development Plan and Local Area Plan, and in accordance with local, regional and national planning policy. The development is of a type and scale which meets the definition of Strategic Housing Development set out in section 3 of the Act of 2016, as amended. The 2016 Act is an act to facilitate the implementation of *Rebuilding Ireland, An Action Plan for Housing and Homelessness*, which plan notes that the accelerated delivery of housing is a key priority for government. The provision of Build-to-Rent units is a key action under Pillar Four of the plan.

It is considered that the proposed development will contribute to the national strategic objective of delivery of housing.

10.3.2. ***Section 37(2)(b)(ii) There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned.***

County Development Plan Housing Policy 8 supports higher densities and the efficient use of lands. Given that higher densities are generally associated with increased heights, this policy would appear to be in conflict with Housing Policy 9 Objective 4 which seeks to direct tall buildings (> five-storeys) 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.

While Development Plan Policy H8 Objective 6 identifies densities of 35-50 for outer suburban sites, this objective along with Policy H8 objective 5, clearly identifies the need to comply with the density provisions of any applicable LAP. I do not therefore concur with the applicants that these objectives are in conflict with the objectives of the LAP.

It is also argued that the building height objectives (Policy H9 Objective 4 of the Development Plan and Objective BF8 of the LAP) are inconsistent with the objectives of the County Development plan promoting higher densities and efficient

use of lands. I do not consider, however, that these are necessarily mutually inconsistent policy objectives such as to justify a material contravention of the LAP.

10.3.3. **Section 37(2)(b)(iii)** *Permission for the proposed development should be granted having regard to regional spatial and economic strategy, guidelines under S.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.*

In accordance with s.9(3)(a), the Board is required to apply specific planning policy requirements contained in any guidelines issued by the Minister under s.28 of the 2000 Act and S.9(3)(b) further provides that such specific planning policy requirements will apply (to the extent that they are different) instead of the relevant provisions of the Development Plan.

**a) Building Heights:**

The proposed development provides 1 no. 4 - 6 storey apartment block and 5 no. 3-storey duplex buildings. This materially contravenes:

- Policy H9 Objective 4 of the County Development Plan, which directs tall buildings, in excess of 5-storeys, to strategic and landmark locations in town centres, mixed use zones and SDZ's.
- Objective LUD 5, 6 and 7 and Objective BF8 of the Local Area Plan, restricts development on lower slopes to no more than 3-storey terraced and semi-detached housing, development on mid-slopes to two-storeys and development on upper slopes to one-storey / split-level housing.

I note that the LAP was adopted in 2014 but has been extended to 2024. The LAP pre-dates much of the current planning policy advice at national level with regard to building heights. Notwithstanding this, I do not consider that the building height provisions of the LAP can be regarded as blanket restrictions given the variation applied to different slopes.

Policy set out in the National Planning Framework promotes performance criteria, particularly in respect of building height under NPO 13, while NPO 35 promotes



higher residential densities through a range of measures including increased building height. The Urban Development and Building Heights Guidelines support increases in building heights to achieve densification and consolidation of urban areas. Criteria to be applied in considering applications for buildings taller than prevailing building heights are identified in section 3.2, and SPPR 3 provides that where those criteria are met, permission may be granted even in contravention of the development plan, although there is no obligation to grant permission.

I note the following in respect of the criteria set out in section 3.2.

<b>Broad Principles</b>
<i>Assist in securing NPF objectives of focusing development in key urban centres, fulfilling targets related to brownfield, infill development and effectively supporting the National Strategic Objective to deliver compact growth in our urban centres?</i>
The residential development of these RES-N zoned lands within the metropolitan area, will assist in the achievement of NPF objectives.
<i>Is the proposal in line with the development plan which plan has taken clear account of the requirements set out in Chapter 2 of these guidelines?</i>
No. The LAP and County Development Plan pre-date the guidelines.
<i>Where the relevant development plan pre-dates these guidelines, can it be demonstrated that implementation of the pre-existing policies and objectives of the relevant plan or planning scheme does not align with and support the objectives and policies of the National Planning Framework?</i>
Yes. The restriction on building height and density would result in an inefficient use of zoned, serviced lands which would not achieve the appropriate consolidation of development in line with the NPF.
<b>At the scale of the relevant city/town</b>
<i>The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.</i>

Existing high frequency bus services, running between Stocking Avenue and the city centre are directly accessible from the site and run at an approx. 15min frequency. Additional services are available within approx. 1-1.2km from the site at similar frequencies.

Bus Connects provides for future improvements to bus services in this location.

*Development proposals incorporating increased building height, should successfully integrate into / enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner.*

The development provides for building heights of 3 – 6-storeys across the site. The taller elements are located at the lower elevations, adjoining the existing roundabout. This block faces the retail / village centre under construction to the west and marks this location / entrance to the wider development. There is variation in heights in this area and existing development at roundabout junctions to the west and recently permitted development in White Pines East, under ABP-309398-21, provide for increased building heights.

I have noted one element of the scheme which I regard as unduly prominent, Block C2, and have recommended that this element be subject to omission and / or redesign.

There are no protected structures or other features which would be impacted by the proposed development. The site is not highly prominent in the wider area and the development will not obstruct or interfere with views to the Dublin Mountains. A landscape and visual assessment, including photomontages and CGI's have been submitted.

*On larger urban redevelopment sites, proposed developments should 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 adjoining developments and create visual interest in the streetscape.*

The site is not a large site in the context of the surrounding developments but does occupy a locally prominent position. This is an emerging urban location and the subject site is the last component of the wider masterplan area. The relationship between the taller Block A, the western plaza / open space and the adjoining retail development to the east is regarded as appropriate and acceptable. The development provides for variety in built form in the surrounding area and does not impact on the amenities of existing adjoining development.

**At the scale of district / neighbourhood / street**

*The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape.*

The layout of development provides for frontage to Stocking Avenue, while avoiding excessive excavation and use of retaining walls within the development. The taller Block A satisfactorily addresses its context, as noted above. The development provides for connectivity to adjoining development. The development will continue the pattern of urban expansion in this area and complete this masterplan area.

*The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered*

The form of Block A as it addresses the roundabout is relatively slender. The development addresses the adjoining roads and avoids long, uninterrupted walls, while providing frontage to Stocking Avenue. Intervening landscaping provides for variation and relief from build elements. The design and layout minimises use of retaining walls.

*The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of the Flood Risk Management Guidelines.*

The proposed blocks and landscaped open spaces address the adjoining roads in a positive manner. The opening of a new public space adjacent to Block A, can link with the retail / village centre.

A flood risk assessment has been undertaken in respect of the development.

*The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area and integrates in a cohesive manner.*

The development provides for connectivity through the site between Stocking Avenue, and its public transport services, and White Pines South. There are also links through to the open space / landscaped routes running through White Pines North. The development is connected with White Pines South and there are potential for future linkages to adjoining lands. Notwithstanding PA comments, Block A is considered to contribute to legibility and way finding in this area.

*The proposal positively contributes to the mix of uses and / or building / dwelling typologies available in the neighbourhood.*

The surrounding area comprises predominately two-storey housing. The proposed apartment and duplex units will provide variety and greater choice in the market, while the BTR model provides further choice and supply in the market.

#### **At the scale of the site / building**

*The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.*

*Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' or BS 8206-2: 2008 – 'Lighting for Buildings*

*Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion.*

The application is accompanied by a Daylight Sunlight and Overshadowing assessment. This is discussed in more detail below. Based on the analysis provided, it is considered that appropriate and reasonable regard is had to the identified guidance documents. The proposed development is considered to achieve satisfactory levels of residential amenity in terms of daylight and sunlight

and will not give rise to significant impacts on adjoining properties in terms of daylight, sunlight or overshadowing.

Section 3.2 also notes that Specific Assessments may be required, and I note the following in this regard:

- The application is accompanied by an EIAR and an AA Screening report.
- A daylight and sunlight assessment have been submitted with the application.
- A Landscape and Visual Impact Assessment is submitted with the application.

I note that the site is located outside of the aircraft safety zones identified in the development plan and note also the submission of the Dept. of Defence in respect of this application. Further studies in this regard are not warranted. I refer to the further detailed analysis in respect of the design and layout of the proposed development and in respect of sunlight and daylight, set out in subsequent sections of this report, and conclude that the criteria set out in para. 3.2 of the Guidelines have been appropriately incorporated into the development

SPPR 4 of the Building 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, and a greater mix of building heights and typologies.

I note the provisions of para 3.4 – 3.8 of the guidelines, which provide for variety of building height and increased densities on the suburban edge of towns and cities. Para 3.6 in particular provides for a mix of 2, 3, and 4-storey development and that increased height can be accommodated along wider streets. Notwithstanding the comments of the planning authority, I consider that development of the nature proposed would accord these provisions of the guidelines.

Having regard to the foregoing, I conclude that the Board may grant permission for such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

**b) Density:**

The development proposes the construction of 114 no. dwelling units on the site equating to a gross density of 52.5 units / ha. I do not consider that the net density would be significantly different or that the exclusion of areas such as the powerline wayleave is warranted. Such densities would materially contravene Policy H8, Objectives 5 and 6 of the Development Plan, which refer to compliance with the density requirements of the LAP, and Objectives LUD 1 and LUD 5-7 of the LAP.

National Policy Objective 35 of the National Planning Framework seeks to increase residential densities in settlements and the RSES for the Eastern and Midland Region promotes compact growth and increased densities within the metropolitan area. SPPR 4 of the Building Height Guidelines requires that in future residential development of greenfield or edge of town locations, planning authorities must secure the minimum residential densities as set out in the Sustainable Residential Development in Urban Areas guidelines, and a greater mix of building heights and typologies. I note also the provisions of Circular NRUP 02/2021, and the intent to issue updated Section 28 guidelines that will address sustainable residential development in urban areas. Such updated guidance remains outstanding. The circular notes that the Sustainable Residential Development Guidelines state that for Outer Suburban / Greenfield sites within cities and larger towns, net densities should be in the general range of 35-50 dwellings per hectare, and further, that development at net densities of less than 30 dwellings per hectare is generally discouraged, although not precluded, in the interests of land efficiency.

The site is located on zoned, serviced lands within the metropolitan area on the edge of the existing built-up area. The site would generally equate an Intermediate Urban Location as defined in the Apartment Guidelines, which are described as suitable for smaller-scale, higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (broadly >45 dwellings / ha net). I do not necessarily concur with the planning authority categorisation of this as a Peripheral and / or Less Accessible Urban Location and suggest that the existing and emerging suburban character of the area is not wholly reflected in the rural, peripheral character described in the Chief Executive's report.

The LAP provides for varying densities across lower, mid and upper slopes ranging from 12 – 38 units / hectare. The applicants calculate that this would provide for

between 42 and 56 no. dwelling units across the entire site. In support of the proposal, the applicants also note that the proposed development would result in the densities across the overall White Pines development of approx. 45 units / ha in total. The densities provided for in the LAP are regarded as very low for such an urban location and I do not consider that they would achieve an efficient use of such zoned, serviced land, consistent with national policy. Subject to the landscape and visual amenities of the area not being significantly adversely impacted, I do not consider that the proposed densities of development are inappropriate for these lands or that the flexibility provided for in the guidelines for lower densities would be warranted in this case.

The proposed development densities are not regarded as excessive, would be consistent with the densities envisaged in national policy guidance and regional policy, and would not be out of character with the existing and emerging pattern of development.

I conclude therefore that the Board may consider a grant of permission in respect of the densities of development proposed under S.37(2)(b)(iii), notwithstanding the objectives of relevant development plan or local area plan.

### **c) Dwelling Mix**

LAP Objective LUD3 requires the provision of a minimum of 90% or more houses within such development and states that apartment and duplex units are not permissible on the Upper Slopes of the Plan Lands. In addition, objectives LUD5, 6 and 7 refer to the provision of houses on lower, mid and upper slopes, which would be contravened by the proposed development. The basis for LAP policy objective LUD3 is not clear and does not appear to be based on any Housing Need and Demand Assessment.

The applicant notes the nature of development in the wider White Pines area and argues that the proposed development will contribute to an overall mix of 49% houses and 51% apartments / duplex units, providing greater variety and choice in an area dominated by 3/4-bed houses. This is argued to be in line with national policy in relation to the densification of zoned and serviced lands. The applicant further notes the provisions of SPPR8 in relation to dwelling mix for BTR schemes.

Notwithstanding surrounding developments, the subject application would result in a material contravention of the objectives of the LAP. The mix of house types in the wider area does, however, support the proposed housing mix, having regard to demographic trends and reducing household sizes, as well as National Policy objectives. The Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities refer to the provision of densities of 35-50 per hectare on such outer suburban / greenfield sites involving a variety of housing types.

The Apartment Design Guidelines identify the need for flexibility in the mix of apartment types that better reflects household demand and formation patterns. SPPR 1 states that development plans may specify a mix of apartment and other housing developments but only further to an evidence-based Housing Need Demand Assessment. SPPR 8 of the Apartment Design Guidelines also states that no restrictions on dwelling mix shall apply in respect of BTR development..

I note that this LAP policy objective pre-dates current national policy in this regard. In support of this objective, the planning authority refer to the low-density objectives of the LAP for these lands and argue that this implies the provision of own door housing. Having regard to the comments and conclusions above in relation to residential densities, I do not consider that such arguments are sustainable.

The restriction under objective LUD 3 does not appear to be justified and would be inconsistent with national policy guidance and in particular SPPR8. I do not consider that, subject to the appropriate design and layout of proposed development, the housing mix would be inappropriate or unacceptable at this location. I therefore conclude that the Board may consider a grant of permission in respect of the mix of dwelling types proposed under S.37(2)(b)(iii), notwithstanding the objectives of relevant development plan or local area plan.

10.3.4. ***Section 37(2)(b)(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.***

10.3.4(i) **Building Height, Density and Dwelling Mix:**



Since the adoption of the Ballycullen Oldcourt LAP in 2014 there have been a number of planning permissions granted in the surrounding area including the following:

Permission has recently been granted to the north of the application site at White Pines East under ref. ABP-309836-21, for 241 no. apartments in five apartment blocks and three duplex blocks ranging from 3-6-storeys in height. It is noted that this site is located on Lower Slope lands. It was accepted that the phasing strategy of the LAP was satisfied. The density of development permitted on these lands is approx. 80 units per hectare.

Permission for amending applications at White Pines South have also been granted under PA ref. SD17A/0359 and SD19A/0099, where development comprises densities of approx. 34 / ha. on mid and upper slope lands.

Outside of the Ballycullen Oldcourt LAP area, permission was granted on Scholarstown Road in March 2020 under ABP-305878-19 for 590 no. residential units (480 no. Build to Rent units, 110 no. Build to Sell units), approx. 500 metres north of the application site, with heights ranging from 4 to 6 storeys and a density of c. 110 / ha. Permission was also granted under ref. ABP-307222-20 on Edmonstown Road for construction of 496 no. apartments approx. 1km northeast of the site, with building heights of 2 to 7 storeys and a density of c. 141 / ha.

The height, density and mix of dwelling proposed in this case are not inconsistent with the surrounding development permitted since the adoption of the LAP or the current County Development Plan. In the event of a decision to grant permission in this case, I consider that section 37(2)(b)(iv) of the Act could be invoked in respect of building height, density and dwelling mix

#### 10.3.4(ii) **Local Area Plan Phasing Requirement:**

The phasing strategy of the LAP identifies key requirements to be met before development can move into each subsequent phase. I note the report of the Chief Executive and the Observers comments in relation to the phasing requirements. The development would fall within Phase 4 of the strategy set out in the LAP. The applicant identifies the outstanding requirements of Phases 1 – 3 as follows:

Phase 1: Four arm junction with crossing facilities.

I note the previous works to this roundabout junction described in the application documentation and note that planning authority reports do not raise any issue in this regard. I do not consider that the works described in the phasing strategy are necessary or justified at this time, and the phasing requirements of the plan have been otherwise satisfied by the works undertaken to date.

Phase 2 Completion of the Neighbourhood and Community Centre.

Construction work is currently underway on the adjoining commercial centre and creche to the west granted permission under PA Ref. SD19A/0345 & SD20A/0322, referred to as White Pines Retail. In addition, the recently permitted development at White Pines East, ABP-309836-21, provides for a 552-sq m community centre space which is intended to serve this wider area. These developments are considered to satisfy the phasing requirements of the LAP.

Phase 3: Completion of landscaping of Green Buffer with tracks and trails along southern boundary with mountains.

The development provides for substantial open space which is linked into the adjoining White Pines South development, and also to White Pines North, across Stocking Avenue. The adjoining lands to the southeast of the application site are zoned for rural amenity and agriculture and the proposed development is positioned at a lower level than these lands. I note that the layout of development in White Pines South has already precluded the provision of a buffer and trails along the southern boundary of zoned lands from the west to the subject site. LAP Objective GI30 states that narrowed areas of this buffer to the southern plan boundary shall be no less than 15 metres in width. The position of Block D would contravene this objective at its southern end, however, the layout of development provides for linkages through the site from Stocking Avenue to White Pines South. I do not consider that the development would contravene the objectives of the LAP materially and I note that the submissions of the Chief Executive and of observers have not raised any objection to the proposed development in this regard.

Phase 4: - Commencement of construction of the designated Primary School on the eastern side of the Plan lands **and** the Primary School and/or

Post-Primary School on the western side of the Plan Lands.  
(emphasis added)

- Demonstrate compliance with the road improvements and traffic requirements of the Accessibility and Movement Strategy and all other relevant traffic related plans, guidelines and studies.

The rationale identified in the LAP Phasing Strategy is, “*A primary school on the eastern section of the LAP lands and a primary school and/or post primary school on the western section of the LAP lands will be required to meet the existing and new population needs of the Plan Lands and its surrounding suburban hinterland*”.

The associated notes relating to Primary School provision on page 39 of the LAP introduces uncertainty with regard to the requirements of the phasing strategy, however, stating that “*development on the eastern and western sides of the Plan Lands shall not enter into their fourth phase until the commencement of the planning process for the provision a school on the designated primary school site on the eastern side of the Plan Lands **OR** on the designated primary school site and/or post-primary school site on the western side of the Plan Lands*” (emphasis added).

Sites for school construction have been identified since the adoption of the LAP in 2014. These sites, which remain undeveloped and available at this time for the provision of school facilities in the area, are not in the applicant’s control / ownership. I note that the Dept of Education and Skills have progressed school projects to meet demand in this wider area in recent years and that the planning authority have recently granted a temporary permission for a secondary school off Oldcourt Road, within the LAP area, under PA ref. SD21A/0137. Based on correspondence from the Dept. of Education in respect of PA ref. SD21A/0137, there does not appear to be demand or a requirement for a primary school in this area at this time and the population needs referenced in the rationale of the phasing strategy are regarded as being satisfied. The Chief Executive’s report in this case indicates that the commencement of development or occupation of units should be contingent on the delivery of the required school, however, this is not recommended as a condition in the report.

The Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities, note that planning applications for 200+ dwelling units should be accompanied by a report identifying the demand for school places likely to be generated. In very large-scale residential developments (say, 800+ units), planning authorities must consider whether there is a need to link the phased completion of dwellings with the provision of new school facilities.

Notwithstanding the objectives of the plan, it would appear to be unreasonable to restrict the development of such zoned and serviced lands pending the delivery of future schools by the Department of Education, for which there is no identified demand or timeframe. The proposed development would not compromise the delivery of such facilities in the future should future needs arise, and I refer to further discussion in relation to schools and community facility provision below.

I conclude therefore, that the population needs of the area are catered for in current levels of primary school provision and that the permission granted under PA ref. SD21/0137 satisfies the requirements of the plan as set out on page 39 thereof.

The Applicants also refer to the Phase 4 requirement to demonstrate compliance with the road improvements and traffic requirements of the Accessibility and Movement Strategy and all other relevant traffic related plans, guidelines and studies. The LAP identifies the following headings in this regard:

- Integrated Street Network
- Street Hierarchy
- Pedestrian Movement, Cyclist Movement & Universal Access
- Public Transport Accessibility
- Vehicular Movement
- Cul-de-sacs and Gated Estates

Having regard to the design and layout of development proposed, I do not consider that the proposed development materially contravenes the provision of the LAP Phasing Strategy in this regard.

I conclude that the proposed development would not materially contravene the provisions of the phasing strategy of the LAP in respect of

Phase 1: Four arm junction with crossing facilities;

Phase 2 Completion of the Neighbourhood and Community Centre; and

Phase 3: Completion of landscaping of Green Buffer with tracks and trails along southern boundary with mountains

Phase 4: Compliance with the road improvements and traffic requirements of the Accessibility and Movement Strategy and all other relevant traffic related plans, guidelines and studies,

In respect of Phase 4: *Commencement of construction of the designated Primary School on the eastern side of the Plan lands and the Primary School and/or Post-Primary School on the western side of the Plan Lands*, I conclude that permission for the proposed development should be granted having regard to the pattern of development and permissions granted since the adoption of the LAP and that in the event of a decision to grant permission in this case, I consider that section 37(2)(b)(iv) of the Act could be invoked.

#### 10.3.5. **Material Contravention Conclusion**

I consider that the requirements of section 37(2)(b) of the 2000 Act, to allow the Board to consider permitting a development that materially contravenes an operative plan other than in relation to the zoning of the land, have been satisfied in this case.

In particular I note that:

- Section 37(2)(b)(i) is satisfied in respect of residential development being of strategic or national importance.
- Section 37(2)(b)(ii) is satisfied in respect of contravention of County Development Plan Housing Policy 9 Objective 4 which conflicts with the objectives of Housing Policy 8 in relation to building heights.
- Section 37(2)(b)(iii) is satisfied in terms of compliance with Ministerial guidelines, the provisions of the regional spatial and economic strategy and relevant Government Policy in respect building height, density, housing mix.

- Section 37(2)(b)(iv) is satisfied in respect permissions granted and patterns of development in the surrounding area since the adoption of the LAP and the current County Development Plan, in respect of building height, residential densities, dwelling mix and the provisions of the LAP phasing strategy.

In the event of a decision to grant permission therefore, it would be open to the Board to initiate the material contravention procedure under S.37(2)(b).

Other matters arising:

Observers argue that the development does not achieve the minimum separation distances specified in section 11.2.7 of the County Development Plan which requires a minimum of 35 metres separation between new residential development of more than 2-storeys and existing one and/or two-storey housing. The application demonstrates compliance with this requirement in respect of Block A. I note that duplex Blocks C1 and C2 marginally exceed this requirement achieving separation of approx. 34.8m between gable walls and the front elevation of housing in Wite Pines Dale. I do not regard this marginal exceedance as a material contravention of the plan.

#### 10.4. **Design and Layout**

- 10.4.1. The application site is located on the edge of the urban area, with agricultural / rural amenity zoned lands to the southeast. The site comprises the final part of the wider White Pines development area and was previously the subject of a grant of planning permission for residential development. The site is constrained by topography and by the wayleave associated with the overhead powerline. I note that the Architectural Design Statement and the EIAR describe the evolution of the design of the proposed development. The overall design approach is regarded as reasonable and more responsive to the topography than development of the nature originally permitted in 2005.
- 10.4.2. The development proposes the construction of 114 no. dwelling units on the site, equating to a gross density of 52.5 units / ha. The LAP envisages densities across different slopes ranging from 12 – 38 dwellings per hectare, which the applicants

calculate as providing for a range of 42-56 units across the site. In support of the proposal, the applicants also note that the proposed development would result in the overall White Pines development providing densities of approx. 45 units / ha in total.

- 10.4.3. I have already discussed above the material contravention of the density provisions of the LAP above and conclude that the proposed densities of development are acceptable and appropriate for this suburban location, are not out of character with the surrounding pattern of development, notwithstanding proximity to the Dublin mountains, and are in line with national and regional planning policy guidance.
- 10.4.4. Block A rises from four to six-storeys where it addresses the roundabout and public space, at the lowest, western part of the site. On its eastern side, it provides frontage to Stocking Avenue. Having regard to the topography, I do not consider that Block A would have unacceptable visual impacts on the approach from the east or west and would mark the entrance to White Pines North and South, opposite the retail / neighbourhood centre site to the west. I do not consider that there would be any material impact on views to the Dublin Mountains from the surrounding area. The childcare facility under construction to the west comprises a 3-storey block, elevated above road level, such that it reads as 4-storeys. I note that there is a precedent for the increased heights at such roundabout junctions along Stocking Avenue to the west. Development at the Stocking Wood Drive and Stocking Well Row junction, includes 3-5-storey apartment blocks, while 6-storey development adjoins the junction with Ballycullen Road. The subject site is more elevated than these lands, however, the proposed building heights are not regarded as inappropriate for this location.
- 10.4.5. The planning authority raise an issue in relation to “the use of major retaining walls” within the development. In this regard I note that the development generally avoids the use of retaining walls, notwithstanding the level changes across the site. Such structures are proposed adjacent to the lower ground floor level of Block A, on the eastern side of the proposed plaza / open space. Having reviewed the documentation and drawings, I do not consider that these features, which are incorporated into the landscaping of the site, would be intrusive or detrimental to the visual or residential amenities of the area.

10.4.6. To the east, the development provides four terraces of duplex blocks running roughly parallel to the site contours. The design approach is generally considered to be reasonable, reducing the requirement for retaining wall structures across the site and the prominence of pylons in views from the proposed dwellings. I would raise concerns, however, with the positioning of, duplex block C2 which requires significant earthworks. Ground levels at the northern end of the block footprint are to be increased significantly and this would be the highest block in the development, elevated over Stocking Avenue. The visual images accompanying the application illustrate the elevation and positioning of this block, such that it would be unduly prominent in both near and longer views. I consider that modifications to the development to address concerns regarding the visual impact of this block would be appropriate. Having regard to the complexity of topography on the site, I consider that this would be more appropriately addressed by way of a separate application for this block, rather than redesign by condition. I would therefore recommend that in the event of a decision to grant permission for the proposed development, this block be omitted and subject to a separate planning application for development of reduced height and prominence.

10.4.7. I note that there are protected views south from Stocking Lane, however, these views do not extend along the entire length of this road and will not be materially impacted by the proposed development. In terms of wider views from the surrounding area, I do not consider that the development would have significant negative impacts on visual amenities or on the overall landscape character of the area. The development will contribute to change in the character of the area, however, the lands are located on the edge of the metropolitan area and have been zoned for development for a significant period.

10.4.8. Open space provision across the site is described as 20% public open space, 7% landscaped visual amenity space and 18.2% accessible open space under the power line. Public open space is primarily provided along the northern site boundary between proposed blocks and Stocking Avenue and within the western entrance plaza / playground and the eastern entrance amenity area. Visual amenity spaces comprise landscaped banks between blocks or adjoining the northern and eastern site boundaries and are not regarded as usable / active open space. The topography of the site creates difficulties in providing active level open space areas, however,



there are a number of level play areas at the western and eastern ends of the site. I note also that the site is located within 300m of an area of zoned active recreational open space to the west. The landscaping details provided would generally provide a high level of visual amenity and I note the high quality of finishes and planting in the adjoining developments at White Pines North and South. The linkages between White Pines North and adjoining parkland should be continued from the subject site. The plans identify an uncontrolled pedestrian crossing on Stocking Avenue which would facilitate linkages across the wider area. This crossing should be subject to detailed design in accordance with DMURS, to be agreed with the planning authority, in the event of a decision to grant permission.

10.4.9. I note the topographic constraints of the site and the challenge in providing accessibility. The Landscape Architects Report considers accessibility across the site and notes that all blocks are provided with level / universal access from Stocking Avenue, White Pines South and from internal roads / parking areas. The report notes that there are stepped routes through the site but that these do not form part of the accessible routes.

10.4.10. The planning authority have raised an issue in terms of accessibility to areas of public open space, given the stepped nature of the proposed east-west pedestrian routes through the site. I note the provisions of '*Buildings for Everyone: A Universal Design Approach*'. (NDA Centre for Excellence in Universal Design) which acknowledge the difficulties that topography can pose. Section 1, *External Environment and Approach*, notes that where there is a sloping site, level access should be provided at various points to ensure barrier-free access for all and that all access routes where possible should be designed for use by everyone.

10.4.11. The proposed east-west pedestrian routes through open space would not achieve compliance with the design guidelines of "*Building for Everyone*", given the constraints of the site. Having regard to the extent of open space proposed on the site, however, I consider that some improvements in this regard could be achieved and in the event of a decision to grant permission, a condition in this regard would be appropriate. I note the provisions of section 9, Planning, of *Building for Everyone* in this regard.

10.4.12. The planning authority also refer to a lack of a clearly delineated communal amenity space, contrary to the requirements of the Apartment Design Guidelines. These Guidelines would require the provision of c. 789-sq.m. of communal amenity space. Having regard to the overall extent of open space on the site I consider that this can be satisfactorily accommodated within the development and would not warrant a refusal of permission. I note also that the development does not seek to apply the flexibility provided for under SPPR 8 in respect of Build-to-Rent development in this regard. An appropriate conditions should be attached in this regard in the event of a decision to grant permission.

10.4.13. With regard to the adjoining lands to the southeast, I note their current rural amenity / agricultural zoning and the levels proposed on the site, whereby Block D will sit below levels on those lands. I do not consider that the proposed development would prejudice the future development potential of those lands.

## 10.5. Residential Amenity

10.5.1. The development provides 144 no. dwellings in a mixture of apartment and duplex units as follows:

Block A		
1-bed apartments	26	22.8%
2-bed apartments	21	18.4%
Blocks B, C1, C2, D and E		
1-bed apartments	6	5.3%
2-bed apartments	32	28.1%
3-bed Duplex	29	25.4%

The development is proposed as a Built-to-Rent scheme in accordance with the provisions of the Apartment Design Guidelines. Notwithstanding the provisions of SPPR 8, the development provides an acceptable mix of unit types and sizes, particularly in the context of the existing constructed development in White Pines

South and North. I have already commented on the relationship with LAP objective LUD 3.

- 10.5.2. I note that the design of the proposed dwelling units, including balcony areas, complies with the provisions of the Apartment Design Guidelines. SPPR 4(ii) states the objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme in suburban or intermediate locations. Acceptable levels of dual aspect provision are achieved across the overall development (76%). While levels of 43% are achieved in respect of Block A, I note that north or northeast facing apartments in Block A will enjoy extensive views to the north across the city. In addition, the standard of accommodation compensates for any reduction in amenity arising from such aspect. I note also the findings of the daylight and sunlight assessment which indicates that satisfactory levels of residential amenity are achieved. In this regard, it is considered that the level of dual aspect provision is acceptable.
- 10.5.3. I note that 3 no. 2-bed three-person apartments are provided as part of the scheme. Para 3.6 and 3.7 of the guidelines on Design Standards for New Apartments note that planning authorities may consider such units, with a minimum floor area of 63 square metres. No more than 10% of the total number of units in any private residential development may comprise this category of two-bed, three-person apartment, to provide for Part V requirements and / or a variation in housing provision. Having regard to the number and design of such units in this case, this is regarded as acceptable.
- 10.5.4. The County Development Plan (para 11.3.1(iv)) states that all apartments must accord with or exceed the floor area standards set out in the Apartment Design Guidelines and the minimum floor areas set out in Table 11.21 of the plan (73-sq.m.). The development plan does not refer to such 3-person apartments or provide for 2-bed apartments of less than 73-sq.m. Having regard to the limited extent of provision and the marginal shortfall in floorareas (-1-sq.m.), the development is not considered to materially contravene the standards of the development plan.
- 10.5.5. The proposed development comprises a Build-to-Rent scheme which is provided for under the Apartment Design Guidelines, and specifically SPPR 7 therein. The planning authority consider that there is inadequate provision of residential support

facilities or amenities to discharge the provisions of SPPR 7(b) of the Apartment Design Guidelines. The development provides communal amenity space within Block A comprising reception / concierge desk, residents lounge and multi-purpose room. In addition, waste management facilities are provided around the site. The Statement of Consistency argues that the extent of amenity spaces is appropriate, given the larger than required apartment sizes, spaciousness of the site and the amenities available in the wider area. The applicants refer also to the provision of a community facility on the White Pines East site to the north (ABP-309836-21). While I note that that facility is a requirement to serve the wider LAP area, the proposed facility is in excess of that required under the LAP.

Having regard to the nature, design and layout of the proposed dwelling units and proposed communal facilities, I consider that satisfactory levels of residential amenity for future residents are achieved. The centrally managed nature of the scheme will ensure that the facilities are managed for, and accessible to, all residents.

10.5.6. Notwithstanding the identified visual amenity issues identified in respect of Block C2, I do not consider that the relationship between Block C1 and C2 would result in unacceptable impacts on residential amenity. The nature of the slope proposed between the blocks and separation distance would ensure that undue overlooking and privacy issues do not arise. Any revisions and reduction in the height of block C2 would further reduce perceived impacts in this regard. Having regard to the layout of development on the site and separation distances proposed, I do not consider that the development will give rise to undue impacts on the residential or visual amenities of properties in White Dale Pines to the south.

#### 10.6. **Daylight and Sunlight.**

The application is accompanied by a Daylight Sunlight Report. The methodology used is stated to be based on the BRE "Site Layout Planning for Daylight and Sunlight: A Good Practice Guide", 2011 Second Edition. The report assesses the following aspects of the development:

- i. Daylight levels within the proposed living and bedroom areas.
- ii. Expected sunlight levels within the proposed living areas and bedrooms.

- iii. Quality of amenity space being provided in terms of sunlight.
  - iv. Any potential daylight or sunlight impacts on adjacent properties.
- 
- i. The BRE Guidelines and BS8206 identify minimum recommended daylight factors to be achieved within a space, expressed as Average Daylight Factor (ADF) with values identified for different uses as follows:
    - Kitchen 2% ADF
    - Living Room 1.5% ADF
    - Bedrooms 1% ADF

BS 8206-2:2008 recommends that where a room serves more than one purpose, the minimum average daylight factor should be taken for the room with the highest value. Para 2.1.14 of the BRE Guidelines notes that non-daylit internal kitchens should be avoided where possible, however where they are inevitable, they should be directly linked to a well daylit space.

The submitted report examines a sample of proposed dwelling units at lower levels across the scheme to assesses a worst-case for analysis. All assessed ground floor units achieve or exceed the minimum target ADF values identified above. Having regard to the results of the analysis and the sample assessed, it is concluded that the development will achieve satisfactory levels of daylighting for proposed dwelling units, having appropriate and reasonable regard to the provisions of the BRE Guidelines.

- ii. In relation to sunlight, the development shows compliance with BRE Guidelines, with more than half of the proposed amenity spaces receiving more than 2 hours of sunlight on March 21<sup>st</sup>, as might be expected for a suburban location such as this.
- iii. The BRE Guidelines recommend that interiors where occupants would expect sunlight should achieve at least 25% of annual probable sunlight hours (APSH), including at least 5% of annual probable sunlight hours during the winter months (21st September to 21st March). The Guidelines also note that in particular

circumstances sunlight may be deemed to be less important and that a lower target value could be used.

The submitted report notes the nature of the BRE Guidance document and the degree of flexibility provided for therein. The sunlight assessment shows that 77% of windows meet these criteria. The identified reason for failure to reach the reference value is the northerly orientation of the window and the report notes that 90% units would achieve an APSH value of 15%.

I note that the development achieves generally high levels of compliance with the standard and that all units will receive adequate daylighting, as discussed under item (i) above. Northerly units, particularly at upper levels in Block A will have the benefit of expansive views across the city which would compensate for the reduced levels of direct sunlight. I note also that floor to ceiling heights are in excess of the minimum standards. I consider that adequate levels of residential amenity would therefore be achieved across the scheme.

- iv. In terms of impacts on daylighting of surrounding sensitive receptors, the BRE Guidelines note that unless the proposed development subtends an angle of 25° from the horizontal at the main window wall in the existing building, it is unlikely to have a substantial effect on the diffuse skylight to that property. The analysis provided indicates that all adjoining properties fall outside the 25° criteria and the impact on daylight to adjoining properties will therefore be negligible.
- v. The assessment of overshadowing impacts identifies adjoining sensitive open spaces / rear gardens and examines overshadowing effects on March 21<sup>st</sup>, in accordance with the provisions of the BRE Guidelines. The analysis provided indicates that the proposed development will not give rise to significant overshadowing impacts on surrounding properties. Similarly, in terms of sunlight impacts on adjoining properties, the report notes that since all adjacent properties fall outside the 25° line criteria, sunlight impacts of adjacent properties will be negligible. Therefore, further analysis is not required.

I conclude therefore that the proposed development will achieve satisfactory levels of residential amenity in terms of daylight and sunlight and will not give rise to unacceptable impacts on adjoining residential amenities.

## 10.7. Community Infrastructure

### 10.7.1. Community Facilities

I note the provisions of the LAP in relation to community infrastructure. The combined White Pines developments will provide approx. 636 no. dwelling units and a local retail centre. Planning permission was previously granted for a 172 sq. m crèche facility in White Pines North under ref. SD14A/0222, however, this was to be replaced by a larger c.590-sq.m childcare facility as part of the permitted neighbourhood retail centre permitted under SA/19A/0345 and SD20A/0322. Conditions attaching to the grant of permission required the omission of a proposed community facility and the lodgement of a valid application for a 190-sq.m. facility elsewhere on the LAP lands, in order to satisfy the phasing requirements of the LAP. The creche facility was extended to the second floor in lieu thereof. I note that the provision of a community facility of 552-sq.m. is now proposed as part of the White Pines East development which was recently granted permission by the Board under ABP-309936-21, which exceeds the LAP requirements.

Having regard to the planning history in the area, and subject to the satisfactory provision of development in White Pines East, I consider that the requirements of the LAP in this regard have been satisfactorily addressed.

### 10.7.2. Childcare

The application does not propose the provision of any childcare facilities. The Childcare Facilities Guidelines specify a ratio of 20 no. childcare spaces per 75 no. units. I note, however, that the Apartment Design Guidelines indicate that the ratio identified in the 2001 Guidelines is to be reviewed, and the threshold for provision of childcare facilities in apartment schemes should be established having regard to the scale and unit mix of the development, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area.

The applicants have therefore undertaken a Childcare Demand Assessment. The assessment notes that of the 636 no. units proposed within the overall White Pines development, 511 no. of the units comprise 2-bedrooms or more. Based on 2016 CSO data, the assessment estimates that approx. 195 no. pre-school children will

occupy the overall White Pines development once complete, calculated generally in line with the advice of the Apartment Design Guidelines. Based on the differing types of non-parental childcare take-up reported, the capacity requirement of the overall development would be in the range c. 49-90 no. spaces. The assumptions and calculations set out in the assessment are considered to be reasonable.

The c. 591 sq. m childcare facility permitted under Ref. SD19A/0345 / SD20A/0322) is currently under construction and has stated capacity of 65 no. spaces or more. I note that this capacity is likely to be higher having regard to the differing floorspace requirements of different age groups and would thus largely meet the projected demand of the overall development.

The assessment identifies 27 no. operational childcare facilities within a c. 1.5km radius of the site that currently provide more than 760 No. childcare places, with a stated capacity for approx.170 no. new enrolments. In addition, reference is made to nearby permitted SHD developments which are providing childcare facilities. While those facilities are intended primarily to serve those developments, I note that ABP-305878-19 at Scholarstown Road, would appear to provide childcare capacity in excess of the specific development requirements.

Observers have queried the assessment of capacity of local facilities set out in the report, however, based on the analysis provided, I am satisfied that the likely childcare demands arising from the development would be satisfied within the wider White Pines development and that any additional demands arising could be met within the wider area.

### 10.7.3. School Demand Assessment

The combined White Pines development is expected to comprise approx. 636 no. dwelling units. The Schools Demand Assessment accompanying the application estimates an indicative population of 1,749 no. persons, including an estimated 511 no. children of school-going age (311 no. primary and 200 no. post-primary).

The assessment notes that the Rathfarnham School Planning Area includes 11 No. primary schools and 8 No. post-primary schools extending across a wide area. I note however, that the applications site lies close to the boundary with the Firhouse-



Oldbawn School Planning area, for which no analysis is provided and the LAP includes lands within both areas. The assessment states that based on Department of Education and Skills projections, the schools network is likely to experience decreased enrolment of c. 9% at the primary level and increased enrolment of c. 7.5% at post-primary level from 2020-2025, although it does acknowledge that this is a national trend and does not reflect patterns in particular local areas.

The LAP identifies sites for school development to the west of the application site and the phasing strategy requires the delivery of schools with development. I note that the eastern site zoned for school provision is not in the applicant's control / ownership but remain undeveloped at this time.

Planning and design works are progressing on schools projects in the school planning area and I note the Dept of Education and Skills update on the "Current status of large-scale projects being delivered under the school building programme 31 May 2021" in this regard. Under PA ref. SD21A/0137, temporary permission was granted for a two storey post-primary school (Firhouse Educate Together), to the west of Ballycullen Road on lands identified in the LAP for primary / post-primary school. The secondary school currently operates in vacant classrooms in existing Gaelscoil na Gluise primary schools to north of Killinniny Road and will relocate to this site to meet demand. In support of this application, the Department of Education noted that primary enrolments are decreasing nationally and that while local increases may occur in some school planning areas "*this does not appear to be the case in the Firhouse Oldbawn school planning area in the short- to medium-term, even when data on current residential development is considered.*" Correspondence on this file and on the current application confirm that both the planning authority and the Dept. of Education will continue to work together to ensure that longer-term requirements are met.

I conclude that there are lands available for the provision of school facilities in the area and that the Dept of Education and Skills have not identified a specific requirement for additional schools provision in this area at this time. Notwithstanding the objectives of the development plan, it would therefore appear to be unreasonable to restrict the development of such zoned and serviced lands pending the delivery of future schools for which there is no identified timeframe or demand.

## 10.8. Drainage and Services:

### 10.8.1. Water Supply

It is proposed to connect to an existing 500mm $\varnothing$  watermain on Stocking Avenue, with a connection back into the watermain network provided in White Pines South. Correspondence from Irish Water indicates that such a connection is possible without any network upgrades.

### 10.8.2. Foul Drainage

In respect of wastewater, the application advises that the existing foul drainage network in "White Pines South" has been designed to accommodate the additional flows from the subject site. It is indicated that this network connects via an existing drain under Stocking Avenue into the foul drainage network in White Pines North constructed under SD14A/0222. This ultimately discharges to a 450mm diameter foul drain which crosses under the M50 motorway. A Statement of Design Acceptance has been received from Irish Water in respect of development within the site.

The observation from Irish Water indicates that upgrade works are required to increase capacity of the Irish Water Network and to accommodate the proposed connection. These network upgrade works, comprising the Ballycullen / Oldcourt Local Network Reinforcement Project (LNRP), are to be completed by 2022. Application documents refer to these upgrade works as the Scholarstown Branch Sewer LNRP, but are understood to comprise the same project. I note that first occupation of units in the White Pines East development permitted under ref. ABP-209836-21 is conditional upon completion of the network upgrade.

Having regard to correspondence on the file, I consider that there is sufficient certainty to conclude that the network upgrade project will be complete and available to serve the proposed development within a reasonable timeframe. Nonetheless, in the event of a decision to grant permission in this case, occupation of dwellings should be conditional on such works being complete and commissioned.

Separately, Irish Water correspondence refers to a requirement for a separate 520m network extension from these upgrade works to the application site. The route of this

extension is not identified, and this was not a requirement in respect of White Pines East, ABP-309836-21. Irish Water indicate that the applicant will be required to fund this local upgrade. Occupation of any units permitted on the site should be condition on such local network upgrades being complete.

Observers note current deficiencies in the foul drainage arrangement serving White Pines South, which requires the removal of sewage by tanker off-site due to current network constraints. Completion of the network upgrade works identified by Irish Water would address this constraint and facilitate an appropriate drainage solution for that development.

### 10.8.3. Surface Water Drainage

The infrastructure design report advises that the surface water drainage network constructed to serve “White Pines South” to the west, has been designed to accommodate the additional flows from the subject site. This network, which includes the White Pines Retail site, outfalls via an existing surface water drain (225mm $\odot$ ) under Stocking Avenue and connects to the surface water drainage network in White Pines North constructed under SD14A/0222, and ultimately outfalls to an existing 600mm diameter surface water drain which crosses under the M50 motorway.

The proposed drainage network will collect surface water runoff prior to discharge off site, via the attenuation storage, flow control device and separator arrangement. In addition, the network incorporates the use of SUDS measures including tree pits, permeable paving and green roofs which provide interception storage. The application provides attenuation for part of the catchment within the site boundaries. The remaining attenuation requirements are met within an existing attenuation storage area installed within the site of White Pines Retail. This provides for a combined overall discharge from lands south of Stocking Avenue to the surface sewer under Stocking Avenue of 38l/sec, as permitted under SD10A/0041. This rate of discharge is less than the QBar value calculated for these lands in the report and is therefore argued to be a more conservative figure. Regard is had to the prevailing topography in such calculations. I note that the planning authority Water Services Planning Report raises no objection to these proposals and recommends relatively standard planning conditions.

I note observers' submissions regarding surface water / pluvial flooding in White Pines North in winter 2021. Observations received on ABP-309836-21 indicate that the issues experienced arose from a lack of maintenance of drains on that site which had not yet been taken in charge, rather than inherent design or flooding issues. The connection through the surface network in White Pines North is in line with the original design proposals for that scheme. Issues of ongoing maintenance is a matter for a management company or, if taken in charge, the planning authority. The surface water drainage proposals are regarded as satisfactory and final technical design details can be agreed with the planning authority, in the event of a decision to grant permission.

#### 10.8.4. Flooding

The application is accompanied by a Site-Specific Flood Risk Assessment, which has regard to the provisions of the Planning System and Risk Management Guidelines for Planning Authorities. The assessment concludes that the site is located within Flood Zone C. There is a low risk of fluvial and ground water flooding and a medium risk of pluvial flooding arising from issues with the proposed drainage measures, mitigated by design and proper operation and maintenance of the drainage system. The Detailed Flood Risk Assessment Stage therefore only considers pluvial flood risk in relation to the following;

- **Proposed Surface Water Management Measures and SuDS:** The receiving network has been designed to accommodate flows from the subject site and the proposed drainage network incorporates SUDS measures and attenuation prior to discharge.
- **Flood Exceedance:** During storms greater than the 1% AEP pluvial event, the site's drainage network design may be exceeded and areas with low ground levels will begin to flood. Overland flow is directed towards open space areas and roads.
- **Impact on Adjacent Areas:** It is noted that storms greater than the 1% AEP may result in overland flow being directed towards open space areas and roads.
- **Climate Change:** Surface water attenuation and drainage design provides a 10% increase in rainfall intensities and flows, as recommended by the GSDS

- Access and Egress for Emergency Services during Flood Events: Both the primary and emergency vehicular access points are located in Flood Zone C, and it is expected that the site can be safely accessed during storms up to the 1% AEP event. The emergency vehicular access of Stocking Avenue is more elevated and will ensure accessibility to the site.
- Residual Risks: Remaining residual flood risks include pluvial flooding related to pipe blockage, flood exceedance or mechanical failure and for storms in excess of the 1% AEP storm event.

The SSFRA indicates that the flood risk mitigation measures provide a suitable level of protection should a large pluvial storm occur, including regular maintenance to reduce the risk of blockage and ensure that overland flow routes are not blocked. Overland flow routes directed towards open space areas will protect the proposed development. I note that the planning authority Water Services Report raises no objection to the development in respect of flood risk.

Observers raise concerns in respect of proposed overland flows and potential impacts on adjoining lands. I note that such flows only arise for events in excess of 1:100 AEP and the route for such flows is identified in the SSFRA. These routes have the potential to discharge to Stocking Avenue. I recommend that in the event of a decision to grant permission, a condition be attached requiring that the final design of the surface water management system be agreed with the planning authority. Such technical details should incorporate SUDS principles and ensure that overland flows do not result impact on downstream properties.

An issue has also been raised in relation to the filter drain to the east of Block D and the potential to accommodate overland flows from lands to the east / southeast within the proposed drainage system. I note that those lands are in agricultural use / grazing and there is no evidence that such flows are currently an issue at this location or that the proposed development would contribute to such issues. The capacity of such filter drain would comprise part of the technical detail to be agreed prior to the commencement of development.

## 10.9. Transport and Access

- 10.9.1. Vehicular access to the development is proposed via the existing roundabout on Stocking Avenue and the internal roads of White Pines South. Cycle and pedestrian access is provided from Stocking Avenue to the west and north. I note observer's submission which raise issues regarding the adequacy of public transport services in this area, the levels of car parking and existing congestion on the road network, access through White Pines South.
- 10.9.2. The surrounding road network is of a generally good quality. Cycle and pedestrian facilities are generally good and well connected. Connections to adjoining parks are also available through White Pines North, providing more direct routes for alternative modes. The submitted Traffic and Transport Assessment (TTA) notes that the LAP provides for the removal or signalised upgrading of the roundabout to the west of the site, however, this roundabout was upgraded as part of the planning application SD14A/0222, to better reflect DMURS guidelines, and the local authority do not require further upgrade works at this time. The design and layout of roads within White Pines South is of a good standard and is considered to have capacity to accommodate the proposed development without undue impacts on road safety or convenience.
- 10.9.3. The #15B bus service runs from Stocking Avenue to the west of the site to the city centre / Barrow Street via Rathfarnham and Rathmines, on an approx. 15 min frequency. The development provides for the relocation of an existing bus stop / lay-by along the frontage of the site. In addition, the #15 service runs to Clongriffin via the city centre along Ballycullen Road, approx. 1km west of the site, operating at an approx. 10min frequency. Proposals under Bus Connects include a new route (#85) running along Stocking Avenue at 10-15min frequency, between Tallaght and the city centre. Proposed radial route A1 runs along Ballycullen Road.
- 10.9.4. The applicants describe the site as being located within Parking Zone 2, as per the county development plan – lying within 400m of a high-quality bus route. The maximum development plan parking standards for this zone are 113 no. spaces. The development proposes the provision of 98 no. car parking spaces / 0.85 per unit and the application is accompanied by Parking Strategy Report. It is proposed that supplementary services will be available via 2 no. Club Car parking spaces within the site. In support of the reduced level of parking provision, the applicants have assessed car ownership in the surrounding area and identified an average

ownership rate of 0.98 per dwelling unit, while daily commuting by car is approx. 46%. A mobility management plan is also proposed to encourage the shift in mode.

- 10.9.5. I note that the development plan parking standards are maximum standards and the planning authority, and the Roads Department, raise no objection to the proposed level of car parking. Reduced levels of car parking within developments can give rise to a risk of overspill or uncontrolled car parking on internal or adjoining roads. In this case, I note the Build-to-Rent nature of the scheme and the retained central management of the site which can assist in the management of parking within the site and communication to future residents prior to occupation. Proposed parking spaces are not necessarily proximate the dwelling units being served. I note the provisions of the parking management strategy, however, and consider that subject to set-down / loading being accommodated adjacent to Block B, the proposals are acceptable.
- 10.9.6. The planning authority refer to excessive levels of surface car parking provision that would dominate large parts of the site. I note the difficulties in balancing the provision of parking to meet the needs of a development with the encouragement of sustainable transport modes, and avoidance of car dominated streetscape. In this case I note the reduced levels of parking proposed. While all parking is at grade, measures to reduce its dominance within the streetscape with street trees and bicycle parking are relatively successful. Additional landscaping to define parking associated with Block A can be subject to condition. I do not consider that the layout of parking on the site provides a justification for lower density development thereon.
- 10.9.7. I have commented earlier on the lack of clarity regarding the levels of bicycle parking identified in the application. I have identified 213 no. cycle parking spaces on the submitted drawings. This would fall short of the identified level of provision under the Apartment Design Guidelines of 282 no. spaces. Having regard to proposed level of car parking provision on the site and the stated intent to encourage alternative modes, I consider that the provision of adequate levels of cycle parking assumes greater importance. In the event of a decision to grant permission in this case, I recommend that additional secure cycle parking provision be subject to agreement with the planning authority. As noted by the planning authority, external / surface bicycle parking should be covered.

- 10.9.8. In terms of trip generation, the TTA utilises TRICS data to assess the impacts of the development. I note that the trip rates used in this assessment reflect those applied in White Pines East (ABP-309836-21), which was recently granted permission. The assessment also considers developments in the surrounding area, including White Pines East as well as developments further west along Stocking Avenue, to identify total committed levels of traffic generation.
- 10.9.9. Three junctions are assessed – at the two roundabouts on Stocking Avenue to the west of the site and at the Stocking Lane roundabout to the east. The assessment concludes that the additional traffic arising from the proposed development on the network, taking account of committed development, would not be significant, with a maximum percentage increase of 3.8% on the immediately adjacent roundabout during peak hours. At the other assessed junctions the impact is identified as less than 2%.
- 10.9.10. I note observers comments in respect of congestion on the wider network and a requirement for a wider network assessment, particularly on Ballycullen Road. Planning authority reports on the application do not raise concerns with regard to transportation or congestion, however, and I note the recent decision of the Board in respect of ABP-309836-21 in this regard. It is the case that all development will give rise to some transportation impacts, however, I note that the subject lands are serviced, have been zoned for development for a considerable period and have been the subject of previous planning permissions, albeit for lower densities of development thereon. There are existing and proposed bus services serving the site and the wider area, and existing provision for sustainable modes in the area. I do not consider therefore that the proposed development would give rise to unacceptable impacts on the traffic and transportation networks and consider that it has the potential to support sustainable transport modes.

## 10.10. Other Matters Arising

### 10.10.1. Part V

The applicants argue that previous Part V provision on the wider masterplan lands have largely satisfied the obligations of the developer in this regard. Application correspondence indicates that the Part V obligation associated with the development



permitted under ref. SD04A/0393 / PL06S.212191 (as amended) were included in Phase 1 of that development. Phase 1 comprised 372 no. residential units at Stocking Well and Stocking Wood. The remaining phases of the overall permitted development of 789 no. units were not implemented. Copies of correspondence from South Dublin County Council, dated 02/03/2016, indicates that 100 Part V units had been provided at that time in respect of development under the original masterplan.

The applicants indicate that the excess provision from Phase 1 has been applied to the White Pines Master Plan lands and as a result of this earlier level of provision, no Part V units are proposed within the development. I note also that the Part V requirement reduced to 10% in the years since the original grant of permission under SD04A/0393.

Planning authority correspondence does not confirm whether or not they are satisfied that the Part V obligations in respect of the development have been satisfied. The report from the Housing Section notes the applicants' submissions and requests that the developer engage with the Housing Department in order to agree "a Part V yield including agreement on any possible overprovision from previous developments". The planning authority have therefore recommended that a Part V condition be attached in the event of a decision to grant permission.

I consider that this is reasonable and that such a condition would provide for agreement of the nature between the developer and the Council with regard to any prior fulfilment of their obligations in this regard. In default of agreement the matters could be referred to the Board for determination.

#### **10.11. Chief Executives Recommendation**

As noted above, the Chief Executive recommends that permission for the proposed development be refused for 3 no. reasons. These are addressed in the report above, however, in the interest of clarity, the reasons are addressed individually below.

- 10.11.1. Reason no. 1: Material Contravention of the Ballycullen-Oldcourt LAP and the South Dublin County Development Plan (2016-2022) in relation to building heights, density and dwelling mix.

I have considered the material contravention of the development plan and LAP in detail above. As concluded in section 10.6 of this report, I consider that the requirements of section 37(2)(b) of the 2000 Act, to allow the Board to consider permitting a development that materially contravenes an operative plan other than in relation to the zoning of the land, have been satisfied in this case.

10.11.2. Reason no. 2: Due to the site's relative inaccessibility by public transport and poor connection to amenities such as schools, this is not considered under national guidance to be a suitable site for higher density or taller development.

I have considered the design and layout of the proposed development and the surrounding pattern of existing and permitted development in the report above. The site is considered to be suitable for, and has capacity to accommodate, increased densities and taller development than envisaged in the LAP without significant impacts on the landscape or visual amenities of the area. The site is directly served by existing frequent bus services and future improvements in this area are proposed. National guidance on residential densities and building height are relevant considerations and it is not considered that these are adequately reflected in the policies and objectives of the LAP for these lands. The proposed development provides for a more efficient use of these lands and is regarded acceptable in principle.

10.11.3. Reason no. 3: The design and layout would result in a poor standard of accommodation and a poor layout given the site context including topography and neighbouring sites, contrary to the 'RES' land-use zoning objective and the Local Area Plan and would be seriously injurious to adjoining properties in the vicinity.

I have addressed the specific issues raised in this report above. I regard the quantum and layout of open space provision to be acceptable. The development does not prejudice the development of adjoining lands to the east and the density of development is not regarded as unreasonable. Car parking provision is restricted and subject to some additional landscaping works to define and enclose parking spaces, the layout of development is not regarded as unacceptable.

The use of retaining walls is largely avoided through the site, notwithstanding the prevailing topography and those structures provided adjacent to Block A are not regarded as seriously injurious to the amenities of the area.

I have commented on the positioning and height of Block C2 and recommend revisions to the development in this regard. Notwithstanding this recommendation, significant overlooking or loss of privacy between Block C1 and C2 are not likely. Proposed dwelling units achieve satisfactory standards of accommodation, generally in excess of the minimum standards and it is considered that the requirements of SPPR7 in respect of BTR development are satisfied. The communal open space requirements of the Apartment Design Guidelines can be satisfactorily accommodated within the site, subject to further landscaping design.

I consider that the likely childcare requirements arising can be accommodated within existing and permitted facilities in this wider area, particularly that currently under construction in White Pines Retail to the west. I do not therefore consider that the provision of dedicated childcare facilities within this development is necessary.

## **11.0 Environmental Impact Assessment (EIA)**

### **11.1. Statutory Provisions**

- 11.1.1. This section sets out an Environmental Impact Assessment (EIA) of the proposed development. The development is described in section 3.0 above and also in subsequent sections of this report. It broadly comprises the construction of 114 no. Build-to-Rent apartment and duplex units on a site of c.2.2ha, at Stocking Avenue, Dublin 16.

This application was submitted to the Board after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law. The application was accompanied by an Environmental Impact Assessment Report (EIAR). Schedule 5 of the Planning and Development Regulations 2001-2020 identifies projects in respect of which the submission of an EIAR is mandatory. The proposed development is not identified within Part 1 of the

schedule. I note the following relevant criteria in respect of Class 10 – Infrastructure Projects set out in Part 2.

(b)(i) Construction of more than 500 dwelling units

(b)(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.

The proposed development does not exceed these thresholds, however, having regard to the extent of recently completed and planned development on the surrounding lands, the EIAR states that such threshold would be exceeded and an EIAR is therefore submitted in this regard.

The EIAR contains the main statement and appendices, along with a Non-Technical Summary. Chapter 1 sets out an introduction to the EIAR and describes the context of the application. The requirements of the Directive and the methodology used in preparing the EIAR are identified and the contributors to the report and their qualifications and competence are outlined. Chapter 2 describe the site and its context, while Chapter 3 describes the proposed development. Chapter 4 identifies alternatives considered.

The likely significant direct and indirect effects of the proposed development are considered in the remaining chapters of the EIAR, under the following headings<sup>1</sup>, in accordance with Article 3 of the EIA Directive 2014/52/EU:

5. Archaeology, Architectural and Cultural Heritage
6. Population and Human Health
7. Biodiversity
8. Land and Soils
9. Landscape and Visual Impact Assessment
10. Hydrology including Flood Risk Assessment
11. Air Quality and Climatic
12. Noise and Vibration
13. Material Assets – Waste
14. Material Assets – Traffic and Transportation

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<sup>1</sup> I note an error in the EIAR index in respect of Chapters 12 and 13 of the report.

15. Material Assets – Site Services
16. Interactions and Cumulative Impacts
17. Mitigation Measures and Monitoring
18. Difficulties Encountered

In terms of cumulative impacts, Chapter 1 of the EIAR states that it considers the proposed development in isolation and cumulatively with existing and planned residential developments at the White Pines Masterplan site comprising White Pines North, White Pines South, White Pines East SHD, White Pines Retail and the subject development at White Pines Central.

#### 11.1.2. Consideration of risks associated with major accidents and/or disasters.

Article 3(2) of the Directive 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. The 2018 Guidelines on carrying out Environmental Impact Assessment notes that the two key considerations are:

- Potential of the project to cause accidents and/or disasters, including implications for human health, cultural heritage, and the environment.
- Vulnerability of the project to potential disasters/accidents, including the risk to the project of both natural disasters and man-made disasters.

Chapter 6 of the EIAR, Population and Human Health, notes the requirements of the 2014 EIA Directive, 2018 EIA Regulations and associated EPA Draft EIA Report Guidelines 2017 in this regard. It notes that the site has been assessed in relation to the following external natural disasters; landslides, seismic activity, volcanic activity and sea-level rise/flooding. The potential for major accidents has also been considered with reference to Seveso/Control of Major Accident Hazards (COMAH) Regulations.

I note that a Stage 1 Flood Risk Assessment was carried and is described in Chapter 10 Hydrology, which concludes that the development is not at risk of flooding. There are no upper or lower tier Seveso/ COMAH sites in the vicinity of the proposed development. Having regard to the nature of the proposed residential development on zoned lands, at a scale which is not exceptional, and which is consistent with the

surrounding pattern of uses and development, I am satisfied that the development is not likely to cause or to be vulnerable to major accidents and or disasters.

### 11.1.3. Conclusion

I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct, indirect and cumulative effects of the proposed development on the environment and complies with article 94 of the Planning and Development Regulations 2000, as amended.

In carrying out this EIA I have examined the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the submissions made by the planning authority, observers and prescribed bodies has been set out above.

### 11.2. Alternatives

Article 5(1)(d) of the 2014 EIA Directive requires “*a description of the reasonable alternatives studied by the developer, which are relevant to the development and its specific characteristics, and an indication of the main reasons for selecting the chosen option, taking into account the effects of the development on the environment.*”

Chapter 4 identifies alternatives considered, comprising alternative design solutions and layouts to provide a residential development on the site, in accordance with National, Regional and Local planning policy guidelines. Alternative locations were not considered given the zoning of the site, while it notes that the do-nothing scenario would not accord with National and Regional Policy to progress development of zoned and serviced sites. A number of different design options are described and the rationale for the selection of the proposed development is set out.

In the context of planning policy for the area, county and the region, I do not regard the Do-Nothing option or alternative locations or uses to be reasonable alternatives.

Alternative design approaches to achieve the development objectives are set out in the EIAR, and the reasons for not proceeding with each, are identified.

Having regard to the policy and zoning objectives for the area and the planning history relating to the site, it is considered that the issue of alternatives has been adequately addressed in the application documentation.

### **11.3. Assessment of Likely Significant Direct and Indirect Effects**

#### **11.3.1. Chapter 5 Archaeology, Architectural & Cultural Heritage**

##### **Likely Impacts:**

There are no recorded monuments within 500m of the site. Protected Structures include a gate lodge 140m to the south, associated with Woodtown Park House which is itself located 410m to the south of the application site.

The site has already been subject to disturbance. There are no predicted impacts to any known archaeological remains or recorded monuments. There is potential for previously unrecorded archaeological features to be impacted during construction, ranging from moderate to profound direct negative. There are no predicted impacts to any known architectural or cultural heritage assets arising from the proposed development.

##### **Mitigation**

All topsoil stripping outside of the areas of previous disturbance will be monitored by a suitably qualified archaeologist and full provision made for the resolution of any archaeological features/deposits that may be discovered.

##### **Cumulative Impacts**

There are no predicted cumulative impacts to the archaeological or cultural heritage resource. Should any archaeological or cultural heritage remains be identified on the site, they will be preserved by record, mitigating any negative impacts and adding to the understanding of the historical development of this area. Similar mechanisms will be implemented in proposed and granted developments in the area.

##### **Residual Impacts**

There are no predicted residual impacts on the archaeological, architectural or cultural heritage resource.

### 11.3.2. Chapter 6 Population and Human Health

#### Likely Impacts

In terms of population, it is predicted that there will be slight positive impacts on local business activity due to use of local facilities by construction workers, and indirect positive effects on employment from construction activity. The increased population of the area arising from the completed development will have a positive impact. I refer to earlier comments on community and school capacities in the area.

The development will have a minimal impact on the local landscape and amenities. Wastewater discharge would not impact on local amenities or local population.

Health and safety of workers, particularly during the construction phase, are subject to relevant regulations and the development is not at risk of natural disasters, flooding or major accidents.

Construction activity has the potential to give rise to impacts human health from dust and other emissions to air. Subject to adherence to relevant ambient air quality limit values such impacts are likely to be neutral, short-term and imperceptible.

Construction noise may also impact on nearby noise sensitive properties. Subject to limits on noise and vibration emissions and on the hours of activity, and appropriate control measures, impacts are likely to be temporary / short-term and slight negative. No significant operational noise or vibration impacts are likely. Significant impacts in terms of services and utilities are not likely.

#### Mitigation

The impacts on the local population in terms of residents and businesses are mainly positive. Mitigation measures to minimise the potential impacts on human health in terms of air quality and climate and noise and vibration, and traffic are identified in the relevant sections

#### Residual Impacts



There are no predicted adverse impacts with respect to socio-economic factors, human health, land-use or the amenity value and tourism potential of the area.

#### Cumulative Impacts

Having regard to the positive economic and social impacts, cumulative impacts on population and human health will be positive and long-term. There are potential for cumulative construction impacts where development of White Pines East is concurrent with the subject development. These are addressed under the relevant headings.

### 11.3.3. Chapter 7 Biodiversity

#### Likely Impacts

There are no conservation sites proximate to the proposed development and no watercourses, drainage ditches or water features on site. Surveys did not identify any flora species or habitats of conservation importance. No Annex 1 bird species or bat foraging activity were identified. The only fauna of note were sika deer observed on part of the site. No invasive species were identified. Notwithstanding observers' comments, I note that bat emergent and detector surveys were carried out at appropriate times of the year.

The principle pathway for potential impacts on conservation sites and aquatic ecology is via surface water drainage to the River Dodder pNHA (min 2.0 km distant) via the public surface water network, however, no significant impact is foreseen due to the distance to designated conservation sites, the lack of direct hydrological connection and requirement for compliance with the Water Pollution Acts. The conclusions of the AA screening report are noted.

Loss of habitats and impacts on botany and avian ecology is a slight / moderate negative and localised impact, while impacts on bats are described as neutral. Other faunal impacts are not likely to be significant due to the current nature of much of the site. Biodiversity impacts on biodiversity are described as Minor Negative/Not Significant, primarily due to the removal of the eastern hedgerow. No significant operational impacts are identified.

Some positive local impact from tree planting and landscaping is identified, however, potential for operational impacts from increased noise and light disturbance arises.

#### Cumulative Impacts

The EIAR considers cumulative and in combination effects with surrounding developments, such as release of sediment-laden and hydrocarbon leak on site in the absence of proposed controls. As there are existing measures downstream of the development, and adequate assimilation and dilution between the site and Dublin Bay, it is concluded that no perceptible impact on water quality would occur.

Cumulative or in-combination effects arising with other developments discharging to Ringsend WWTP will not be significant. I note that permission was granted by the Board in April 2019 for the upgrading of the Ringsend WWTP under ABP ref. ABP-301798-18, which works are currently underway. In granting permission, the Board undertook an Appropriate Assessment of the development. The increased loading on the plant arising from the development proposed herein will not be significant in the context of the wider city and the increased capacity of the plant. I conclude that the proposed development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects.

#### Mitigation:

The EIAR notes that measures should be in place to protect the biodiversity of the River Dodder and the Dodder Valley pNHA. These include standard construction phase controls including silt interception. Significant dilution and mixing would take place in the surface water network prior to reaching the River Dodder and existing downstream mitigation measures include hydrocarbon interceptors. The measures outlined are not necessary for the protection of Natura 2000 sites and no additional mitigation measures are required to protect against potential negative impacts on designated conservation sites. Relevant mitigation measures are outlined in the Construction Management Plan in respect of Soils and Geology, Water and Hydrogeology and Air Quality and Climate.

Additional measures are identified to prevent impacts on Habitats, Botany and Avian Ecology, including:

- The timing of works and the removal of trees / hedges.

- Replanting of the hedgerows and wildflower meadows with native species.
- Minimise construction operations outside of daylight hours.
- Retain or replace boundary vegetation / commuting corridors and planting to provide continuity of wildlife corridors.
- Lighting restrictions.
- Deer Fencing or suitable hoarding/fencing on the eastern boundary prior to any construction or clearance commencing.

Residual effects:

The proposed mitigation measures will reduce impacts on local ecology and identified biodiversity enhancement measures have been incorporated into the scheme. There would be likely to be a long term slight negative impact on ecology.

#### 11.3.4. Chapter 8: Lands and Soils

Likely Impacts:

There will be a change from previous agricultural use to urban / residential development and use. Existing topsoil stockpiles on the site from adjacent developments will be reused. Approx. 50% of material to be excavated can be reused on site with the remainder removed to a licenced waste receiving facility. Approx. 15,000-cu.m. of imported fill materials will be required. Other impacts can arise from construction traffic, spillages and leaks. Excavations are not predicted to impact on underlying geology.

Mitigation:

Implementation of a Construction and Environmental Management Plan and measures identified in respect of Water and Ecology, including:

- Design of proposed development to minimise excavation.
- Stabilisation of disturbed subsoil layers and minimise duration of exposure.
- Protect stockpiles of excavated subsoil material for the duration of works and store separately from topsoil stockpiles.
- Measures to capture and treat sediment laden surface water runoff.
- Management of imported fill materials and stockpiles.

- Construction traffic management and dust control measures.
- Spill / leak control measures.

#### Residual Effects:

The loss of agricultural land is not considered significant given the limited site area and value of use for agriculture. The site is not in current agricultural use.

Implementation of the mitigation measures will ensure that any residual impacts will be short term.

#### Monitoring

- Adherence to Preliminary Construction Management Plan.
- Monitoring of the works including inspection of ground conditions.
- Monitoring of fuel / oil storage areas, sediment control measures, cleanliness of external road network
- Monitoring stockpile management.
- A construction dust management/monitoring programme.
- Recording of materials removed from site for disposal.
- Approval of source of imported aggregates.

#### Cumulative Impacts

Potential cumulative construction impacts with other developments in the vicinity could occur such as excavation of subsoils, disposal of excavated material off site, dust generation and construction traffic. Subject to similar ameliorative, remedial and reductive measures are implemented significant cumulative impacts are not anticipated.

### 11.3.5. Chapter 9: Landscape & Visual Impact Assessment

#### Likely Impacts:

Adjacent and immediately surrounding land uses to the west and north are residential in character and are not of high sensitivity. The wider landscape to the east and south beyond the site assumes a rural character, associated with the start of the mountains. The site does not currently contribute positively to the landscape and visual amenities of the area. The proposed development will be in line with the

emerging urban character of this area, with long-term landscape character impacts. Construction activity will have temporary impacts on adjoining residents and road users.

A total of 17 views were selected for which photomontages are submitted to illustrate the operational impacts of the development. The views selected are regarded as being a satisfactory representation of views to the site. The assessment describes the impact on 9 no. of these views as imperceptible. The impact on five views is neutral, with one slight negative impact identified. The remaining views are described as positively impacted.

#### Mitigation:

Construction mitigation will involve appropriate site management procedures such as the control of lighting, storage of materials, placement of compounds, control of vehicular access, and effective dust and dirt control measures, etc. Such mitigation will be set out in the Preliminary Construction Management Plan. The EIAR identifies operational mitigation as integration of the design into its context, including:

- Integration with existing housing
- Design and layout to reduce the apparent mass of buildings and accentuate landmark elements.
- Appropriate architectural detailing and use of appropriate and harmonising colour, tones and materials
- Rationalisation of services elements and potential visual clutter.
- Landscaping.

#### Monitoring

The EIAR identifies the importance of landscaping and planting and the monitoring of planting performance to the success of the development.

#### Cumulative Impacts

I note the pattern of existing and permitted development adjoining the site and the emerging character of the area. Given the adjacent land zoning, the EIAR argues that the development lies at the centre of residential developments in this area and provides a focus, and represents an element of completion for the area.

### 11.3.6. Chapter 10: Hydrology

Likely impacts:

The primary hydrological features in the vicinity of the site are the Owendoher Stream (approx. 0.9km to the east), the Orlagh Stream (approx. 1.0km to the west), which are tributaries of the Dodder River (approx. 2.0km to the north).

No adverse operational effects on surrounding hydrology are anticipated as surface water flows are attenuated to greenfield runoff rates in conjunction with SUDS strategies and interceptor treatment. Direct impacts on underlying hydrogeology are not predicted, with minimal groundwater ingress to trial excavations. The site is located in Flood Zone C with flood protection up to and including the 1% AEP event.

The EIAR notes that foul sewer connections are available through the adjoining completed developments and I note the planned completion of downstream network infrastructure which will facilitate this development, as described in the Irish Water submission on the application. Potential construction phase impacts include:

- Discharge of surface water containing increased silt levels or contaminants.
- Accidental spills and leaks associated of oils and fuels.
- Concrete runoff, particularly discharge of wash water from concrete trucks.
- Discharge of vehicle wheel wash water.
- Improper discharge of foul drainage from contractor's compound.
- Cross contamination of potable construction water supply.

Potential operational phase impacts are to include:

- Reduced ground water recharge and increased surface water runoff.
- Accidental hydrocarbon leaks.
- Increased discharge to foul drainage network.
- Increased potable water consumption.

Cumulative effects:

I note the extent of existing and proposed development in the vicinity of the site. The EIAR notes that surface water drainage infrastructure has been designed in accordance with the relevant guidelines. Any other future development including the

concurrent application to the north would be similarly designed and no potential cumulative impacts are anticipated in relation to surface water drainage and flooding.

No potential cumulative impacts are anticipated in relation to foul drainage and water supply. Irish Water have advised that the proposed connections to the Irish Water networks can be facilitated, subject to completion of identified upgrade works, as discussed above.

#### Mitigation:

##### Construction phase

- Implement a site-specific Construction and Environment Management Plan.
- Collection and treatment of surface water runoff, prior to discharge to the surface water network at a controlled rate.
- Take account of weather conditions in planning works to minimise soil erosion.
- Management of activities and chemicals and other pollutants.
- Off-site concrete batching and wash down / wash out of trucks.
- Discharge from any vehicle wheel wash areas to on-site settlement ponds.
- Provision and management of adequate staff welfare facilities.
- Protect the construction compound water supply from contamination.

##### Operational Phase

- Measures to address residual flood risks include maintenance of the proposed drainage system and ensuring possible overland flow routing towards open space areas should be not blocked.
- Surface water drainage design and implementation of SUDS measures.

#### Residual Impacts:

No impacts on the water and hydrogeological environment are predicted.

#### Monitoring:

Proposed monitoring during the construction phase includes adherence to Outline Construction Management Plan, inspection of fuel / oil storage areas, monitoring cleanliness of adjacent road network, implementation of dust suppression and vehicle wheel wash facilities, monitoring sediment control measures including

discharge. Operational inspection and maintenance of proposed Class 1 full retention fuel / oil separators.

#### 11.3.7. Chapter 11: Air Quality and Climate

Likely impacts:

Construction activity will give rise to a risk of dust emissions and potential nuisance particularly within 50m of the site. There is potential for negative, imperceptible and short-term impact on air quality from construction traffic emissions. Construction air quality impacts will be short-term and imperceptible with respect to human health and will be addressed by the identified construction mitigation measures. There is potential for greenhouse gas emissions from construction vehicles and generators. Climate impacts also include the embodied energy from construction materials and site vehicles.

The EIAR predicts that operational stage traffic will have a negative, imperceptible and long-term impact on air quality and considers cumulative impacts with adjacent development. Emissions are predicted to be compliant with all National and EU ambient air quality limit values and, therefore, will not result in a significant impact on human health. Operational impacts on regional air quality and climate are described as long-term and imperceptible.

Mitigation

Implementation and ongoing monitoring of the dust management plan, as part of the Construction and Environmental Management Plan including the implementation of a dust minimisation plan to ensure compliance with relevant ambient air quality legislative limit values. Procedures within the plan will be monitored and assessed. Monitoring of dust deposition levels (via the Bergerhoff method) shall take place at a number of locations at the site boundary.

Climate impact mitigation measures include on-site vehicle management and waste minimisation.

Residual Impacts:

Residual construction impacts, including cumulative impacts, on air quality and human health are described as short-term and imperceptible. Residual operational



impacts on air quality and climate are long-term, imperceptible and no further cumulative impact assessment is required for the proposed development.

#### 11.3.8. Chapter 12: Noise and Vibration

The closest neighbouring NSL's are the residential dwellings to the west of the site (White Pines North), which are located approx. 10m from the development site at their closest point. The EIAR refers to the guidance in BS 5228-1:2009+A1:2014 to determine recommended daytime noise level for construction based on recorded ambient noise levels at adjoining sensitive receptors. BS 5228-2: 2009+A1: 2014 identifies limit values in terms of vibration. The EIAR includes an Acoustic Design Statement (ADS) in respect of operational noise.

##### Likely Impacts:

Typical construction noise emissions are identified, at separation distances of 10m, 25m and 50m. The assessment is based on construction activity including bored piling. It is predicted that when works take place at the closest distances to the receptors a significant noise impact will occur. It is expected; however, that most construction activities will not cause significant impacts at distances more than 45m from the receptors in White Pines South and the adjoining one-off hoses to the east, and more that 25m from the receptor in White Pines North, having regard to the ambient noise levels recorded at these locations.

Potential for vibration impacts during construction is likely to be limited given the distances to the receptor location and assuming the use of augured or bored piles. Vibration levels at the closest neighbouring buildings are predicted to be below the limits identified in DMRB and below levels that would cause disturbance to occupants.

In terms of increased traffic at operational stage, the assessment refers to the submitted TIA and indicates that additional traffic in noise level for all assessed roads will be negligible and Not Significant. In this regard, I note also the nature and quality of the adjoining public road network.

The assessment of operational noise (Noise Risk Assessment) classifies the site as being of medium risk, which requires an Acoustic Design Strategy to demonstrate

the avoidance of adverse noise impacts in the final development. The closest properties to the public road may experience higher than desirable noise levels in private external amenity spaces. Those towards the middle and rear of the development will be within the recommended external noise levels. The assessment identifies facades where mitigation in the form of enhanced glazing and ventilation will be required.

#### Mitigation:

Typical construction noise mitigation measures are identified, including perimeter hoarding, timing of activities, monitoring of noise and vibration at sensitive locations, selection and siting of plant and fitting of acoustic barriers. Operational plant will be selected to achieve appropriate noise ratings and appropriately treated to achieve the relevant identified noise criteria. The identified facades will be provided with glazing and ventilation that achieve the required sound insulation performance.

#### Residual Impacts:

Construction works closest to sensitive receptors will result in a significant negative temporary impact, reducing to moderate negative with distance. The assessment can be considered “worst case”, all items of plant in operation simultaneously. Aside from rock breaking works, most construction activities are not predicted to result in significant impacts at distances further than 45m of the receptor locations. Other impacts are not predicted to be significant.

#### Cumulative effects:

It is likely that cumulative impacts will occur at the nearest receptors should adjoining development sites progress construction works concurrently, both in terms of noise levels and duration. The EIAR recommends the management of cumulative construction impacts, to include liaison between contractors to schedule works to limit impacts.

#### Monitoring

Construction phase noise monitoring will be undertaken at sensitive locations based on the nearest sensitive buildings to the working areas. Noise control audits are recommended to ensure that all appropriate steps are being taken to control

construction noise emissions and to identify opportunities for improvement, where required.

#### 11.3.9. Chapter 13: Material Assets – Waste

##### Likely Impacts:

Chapter 13, and the submitted Construction and Demolition Waste Management Plan, refer to excavation of c. 23,500m<sup>3</sup> of soil and topsoil material from the site. This is greater than the 18,000m<sup>3</sup> referenced elsewhere in the document. Notwithstanding this discrepancy, the estimates of materials to be removed for disposal off-site in accordance with legislative requirements, are consistent at 9,000m<sup>3</sup>. The discrepancy therefore refers to the volumes of material to be excavated for reuse on-site which would not raise significant additional implications in terms of transport or other issues. I note that the C&D waste management plan is to be updated prior to the commencement of development.

The EIAR also identifies the estimated volumes of waste materials likely to arise from construction activity. In the absence of mitigation, the effect on the local and regional environment is likely to be short-term, significant and negative. Operational impacts are likely to be to be significant and negative, in the absence of mitigation.

##### Mitigation:

The project specific C&D Waste Management Plan, in line with the relevant national guidance, to be finalised / updated prior to commencement of development. Correct classification and segregation of the excavated material is required to ensure that any potentially contaminated materials are identified and handled appropriately. Specific additional waste segregation and management measures are identified.

A project specific Operational Waste Management Plan has been prepared to ensure a high level of recycling, reuse and recovery. All recyclable materials will be segregated at source and standard waste management measures are referenced.

##### Residual Impacts:

Adherence to the C&D WMP will ensure that the construction phase will result in short-term, imperceptible and neutral impacts. Subject to the implementation of the identified mitigation measures and achievement of a high rate of reuse, recycling and

recovery, the predicted operational effect on the environment will be long-term, imperceptible and neutral.

#### Cumulative Impacts

Concurrent development in the surrounding area is considered. Due to the high number of waste contractors in the Dublin region the EIAR notes that there would be sufficient capacity to handle waste generated from these sites. An increased density of development in the area is likely improve the efficiencies of waste collections. All developments will be required to manage waste in compliance with national and local legislation, policies and plans. As such the effect is described as long-term, imperceptible, and neutral.

#### Monitoring

The EIAR notes that the management of construction waste should be monitored to ensure compliance with local authority requirements, and implementation of the C&D WMP. This should form part of the overall CEMP. At operational stage, the EIAR notes that the building management company and nominated waste contractor(s) should monitor operational waste to ensure effective implementation of the OWMP.

### 11.3.10. Chapter 14: Traffic and Transportation

#### Likely Impacts:

Construction activity will have a temporary slight impact on the local road network, with arrivals and departures occurring generally outside peak hours. Overspill construction parking is to be obviated by a designated on-site car park. A Construction Traffic Management Plan will manage activities and movements and HGV movements are not expected to exceed 8 vehicles per hour. Given the site's proximity to the strategic road network and implementation of the CTMP, it is not considered that construction traffic will give rise to significant impacts concerns or impede the operational performance of the local road network.

Operational trip generation estimates are based on TRICS database rates and account is taken of adjacent permitted developments. The marginal increase in traffic flows would not materially impact on the local road network.

Mitigation:

Implementation of a Construction Management Plan with an associated Construction Traffic Management Plan (CTMP), to include hours of working, routing of traffic and haul routes, on-site parking and other measures.

Cycle parking provision and the reduced vehicle parking provision for completed dwelling units aims to encourage a modal split shift towards cycling for short to medium distance trips. Proposed pedestrian access and linkages to/from the subject site will also encourage walking for short to medium distance trips. It is proposed that a Mobility Management Plan will be implemented. I note the proximity of retail and childcare facilities to the west of the site, currently under construction.

Residual Impacts:

The residual construction impact on the local receiving environment will be temporary in nature and neutral in terms of quality and effect. No significant operational traffic and transportation impacts are predicted.

11.3.11. Chapter 15: Material Assets – Site Services

Likely Impacts:

There is potential for interruption to utilities and services including ESB's network, Gas Networks Ireland's infrastructure and telecoms infrastructure during construction and works to provide service connections to the proposed development. Existing overhead lines traversing the site are a risk during the construction phase.

Cumulative Impacts:

The EIAR notes that should construction coincide with other developments in the area, potential cumulative impacts are not anticipated once similar ameliorative, remedial and reductive measures are implemented.

Mitigation:

Construction mitigation includes:

- Preparation of a Method Statement for works in the vicinity of existing utilities.
- Locate and record services prior to commencement of excavations and liaise with utility providers.

- Standard construction practices, including Code of Practice for works in the vicinity of overhead powerlines.
- Implement a Construction Traffic Management Plan to ensure public safety during construction.

Residual Impacts:

Any residual impacts arising will be short term in nature and not significant.

### 11.3.12. Chapter 16: Interactions and Cumulative Impacts

The cumulative assessment considers planned and permitted development in the surrounding area, including the permitted residential development to the north, at White Pines East.

Archaeology and Cultural Heritage & Lands and Soils	Excavations works may impact on previously unrecorded archaeological features. Monitoring of topsoil stripping and full resolution of any features/deposits discovered will mitigate impacts.
Population and Human Health & Air Quality & Climate,	Construction activity has the potential to cause health impacts and dust nuisance issues, particularly during construction. Mitigation will ensure impacts are short-term and imperceptible. Monitoring of dust deposition will be undertaken to ensure compliance with reference values.  Impacts on air quality and climate impacts from changes in operational traffic flows will be long-term and imperceptible. All ambient air quality limit values, based on the protection of human health, will be complied with. Significant effects are not anticipated.
Population and Human Health & Noise and Vibration, Traffic.	Short-term noise impacts will arise during construction. Mitigation includes timing of construction, standard construction management measures and adherence to identified emission limit values. Monitoring of noise emissions at sensitive locations will ensure compliance

	with reference values. Significant effects are not anticipated.
Population & Human Health & Landscape & Visual Impact.	Temporary visual impacts during construction will vary with location of receptor but will be short-term in nature. There will be long-term impacts on the visual amenities of the local area, however, finishes and landscaping of the development will ensure such impacts are not significant negative.
Population and Human Health & Traffic.	Construction activity will give rise to increased HGV traffic and light vehicle traffic on the local road network. Management of traffic in accordance with a Construction Traffic Management Plan will adequately mitigate impacts such that significant negative impacts on population and health are not anticipated. Operational traffic impacts are not regarded as significant or likely to impact on population or human health significantly.
Population and Human Health & Material Assets, Waste	Waste generation at construction and operational stages will give rise to potential environmental effects and nuisance. Implementation of agreed Construction and Demolition Waste Management Plan (CDWMP) and the Operational Waste Management Plan (OWMP) will avoid negative impacts on the local population. The predicted impacts are expected to be long-term, imperceptible and neutral.
Biodiversity & Water and Hydrology:	There is potential for silt laden or contaminated run-off from the site during construction to enter local watercourses. Management and treatment of surface waters, along with separation distances and dilution effects, will ensure that potential impacts on receiving waters are not significant. Operational surface water management will attenuate flows and address pollution and risk of downstream flooding.

Biodiversity & Air Quality	Significant impacts on sensitive flora, fauna and water environments from emissions are not anticipated. Construction measures outlined in the CDWMP will minimise dust emissions. Impacts are predicted to be short-term and not significant. No significant operational impacts are identified.
Biodiversity & Noise & Vibration	Significant impact on biodiversity from noise and vibration area not anticipated.
Biodiversity & Landscape and Visual Impact	Loss of hedgerow will have impacts on local biodiversity and landscape character. Some positive impacts are identified from landscaping and biodiversity enhancement measures. Long-term significant negative impacts are not anticipated.
Biodiversity & Material Assets, Waste	No significant interactions identified.
Land & Soils & Hydrology	There is potential for site works to give rise to silt run-off to receiving waters. On-site management of surface waters will address potential water quality impacts. Operational surface water management will control discharge rates and provide treatment. No significant impacts predicted.
Land & Soils & Air & Climate	Site works may result in dust emissions, impacting on local air quality. Implementation of dust mitigation measures including a dust minimisation plan will address potential significant effects. No significant operational impacts are predicted.
Land & Soils & Noise & Vibration & Traffic and Transportation	Transportation of materials to / from the site may give rise to noise and vibration and transportation impacts. A Construction Traffic Management Plan, including the routing of traffic, will minimise disturbance caused by traffic. No significant operational impacts are predicted.



Land & Soils & Waste	The removal and reuse/recycling/recovery/disposal of materials classified as waste will be carried out in accordance with relevant legislation. Adherence to the mitigation measures and the requirements of the C&D WMP will ensure the effect is long-term, imperceptible and neutral. No significant operational impacts are predicted.
Air Quality and Traffic	Additional traffic generated by the proposed development and nearby developments will give rise to potential long-term but imperceptible impacts on air quality.
Traffic & Material Assets, Waste	The removal of waste from the site during the construction and operational phases will give rise to additional vehicle movements. Construction traffic impacts will be temporary in duration and subject to management under the CTMP. Operational traffic impacts will be imperceptible in the context of the overall traffic and transportation increase. Significant effects are not predicted.

### 11.3.13. Cumulative Impacts

The residential development of these lands is in line with the land use objectives of the county development plan and LAP which have been subject to Strategic Environment Assessment. The proposed development is not considered likely to give rise to significant environmental effects that were not envisaged in the plans that were subject to SEA.

The EIAR considers cumulative impacts with the existing permitted and proposed development in the surrounding area, including White Pines Retail and the development recently permitted at White Pines East under ref. ABP-309836-21. Overlap in construction activity may arise, however, I note that that decision to grant permission was itself subject to Environmental Impact Assessment. This is the last remaining area of these masterplan lands and further development in the immediate vicinity is not envisaged at this time. It is therefore concluded that the cumulative effects with planned and permitted development in the area 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.

#### 11.4. Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information contained above, and in particular to the EIAR and other information provided by the developer, and 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:

Potential construction noise and vibration impacts on nearby sensitive receptors, which will be mitigated by the following measures:

- The short-term nature of construction impacts.
- Implementation of an agreed Construction Management Plan and adherence to identified emission limit values.
- Limiting the hours of construction.
- Selection and location of plant to minimise emissions.
- Monitoring of noise and vibration during critical periods and at sensitive locations.
- Establishing channels of communication with Local Authority and residents.

Potential impacts on air quality and climate, biodiversity and human health from dust emissions at construction stage, which will be mitigated by the following measures::

- Implementation of the Construction Environment Management Plan incorporating a Dust Management Plan.
- Monitoring of dust deposition levels (via the Bergerhoff method) at a number of nearby sensitive receptors.
- Implementation of on-site practices for vehicles to avoid idling engines.
- Minimising generation of waste materials.

A significant change in the use of lands to urban, residential use, which will be mitigated by the following measures:

- The limited and relatively constrained area of the site and the absence of current agricultural use thereof.
- The zoned nature of the land and the identified need for housing in the region.

Potential significant effects on land and soil during construction, which will be mitigated by the following measures:

- Implementation of a Construction Environmental Management Plan, incorporating a Construction Traffic Management Plan.
- Implementation of an agreed Construction and Demolition Waste Management Plan and reuse of substantial volumes of excavated materials on-site.
- Construction management measures to control potential run-off and dust generation, and to reduce the compaction and erosion of soils.

Potential significant effects on Landscape and Visual Amenity, which will be mitigated by the following measures:

- The surrounding pattern of suburban development in the area.
- Implementation of construction site management procedures set out in the Construction Environmental Management Plan.
- Appropriate design, massing and finishes to the proposed development.
- Site landscaping and provision of additional public spaces.

Potential significant indirect effects on water and hydrology, which will be mitigated by the following measures:

- Implementation of a site-specific Construction Environmental Management Plan to control potential emission of sediment or contaminants to water.
- Connection to Irish Water networks on completion of identified upgrade works.
- The design and maintenance of the storm water management and attenuation system.
- Maintenance of overland storm flow routes free of obstruction.

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 the individual EIAR chapters are satisfactory and 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 identified environmental impacts are not significant and would not justify refusing permission for the proposed development or require substantial amendments to it.

## 12.0 **Screening for Appropriate Assessment:**

### 12.1. Description of the project or plan:

The proposed development comprises the final phase of residential development within the White Pines Masterplan area. The development comprises the construction of 114 No. Build to Rent residential units in a mix of 1, 2 and 3 bed apartment and duplex units, across 6 No. separate blocks. Block A comprises a 4-6 storey block accommodating 47 no. apartments at the lower, western end of the site, while blocks B, C1, C2, D and E comprise three-storey duplex blocks that step up the slope, providing 67 no. dwelling units. It is proposed to connect to mains water and wastewater sewers.

The main vehicular access is proposed from the roundabout on Stocking Avenue via the internal road network of White Pines South, with a proposed emergency vehicular access onto Stocking Avenue in the north-eastern corner of the site. Pedestrian and cycle connections to Stocking Avenue are provided. The site is to connect to mains water supply and drainage services, via existing development to the southwest and north.

I refer to the more detailed descriptions contained in previous sections of this report.

### 12.2. Description of the site characteristics

The application site comprises a stated area of 2.1734 ha, located on the southern side of Stocking Avenue. The site falls from its eastern boundary (+123.00) towards its northwestern boundary (+103.50). There is an existing mature hedgerow running northeast to southwest at the more elevated, eastern end of the site. Below this, the site appears to have been subject to disturbance and soil deposition in the past, and the western end of the site is in use as a construction compound. The boundary with Stocking Avenue is formed by a block wall / low wall with railings over. A 110kv line traverses the site, running parallel to the southern site boundary and there are two pylon structures located within the site.

The site is bounded by existing and permitted residential development to the north and south / southwest, and by a retail and childcare facility under construction to the west. Lands to the north of Stocking Avenue fall north toward the M50. To the northeast of the site is a traveller accommodation site. Lands to the southeast rise away from the site and are in agricultural use with two one-off houses beyond the site.

I refer to the more detailed descriptions contained in earlier sections of this report.

#### 12.2.1. Relevant prescribed bodies consulted:

The submitted AA Screening report does not identify specific consultations with prescribed bodies but does refer to a desktop review of published documents and information. The planning application was referred to the following prescribed bodies.

- The Department of Culture, Heritage and the Gaeltacht
- The Heritage Council
- An Taisce
- Irish Water
- Transport Infrastructure Ireland
- National Transport Authority
- South Dublin Childcare Committee
- Commission for Energy Regulation

In response to the referrals, no submissions in relation to biodiversity or ecology were received from the prescribed bodies.

#### 12.2.2. Identification of relevant Natura 2000 sites.

The site is not located within or adjacent to any European site and will not result in any direct loss of, or impact on, habitats in any such site. The submitted AA screening report states that there are no sites within the potential Zone of Influence (Zol) of the development, which is defined as being restricted to the site, with potential for minor localised noise, dust and light impacts during construction.

While the report identifies construction and operational foul and surface water drainage as outputs which could extend the potential Zol, it is noted that the development site is not directly hydrologically linked to any Natura 2000 site. Two tributaries of the Dodder River flow within 1km of the application site, however, there is no connection thereto from the site. The Screening report identifies 11 no. European sites within 15km of the application site, as set out below. The report concludes that given the lack of hydrological pathways to sites beyond 15km, no impacts on such sites are foreseen. This is regarded as a reasonable conclusion.

Qualifying Interest/Special Conservation Interest	Conservation Objectives	Approx. separation
<b>Glenasmole Valley SAC IE001209</b>		
<ul style="list-style-type: none"> <li>– Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>– Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</li> <li>– Petrifying springs with tufa formation (Cratoneurion) [7220]</li> </ul>	<ul style="list-style-type: none"> <li>– To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</li> </ul>	4km
<b>Wicklow Mountains SAC IE0002122</b>		
<ul style="list-style-type: none"> <li>– Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</li> <li>– Natural dystrophic lakes and ponds [3160]</li> <li>– Northern Atlantic wet heaths with Erica tetralix [4010]</li> <li>– European dry heaths [4030]</li> <li>– Alpine and Boreal heaths [4060]</li> <li>– Calaminarian grasslands of the Violetalia calaminariae [6130]</li> </ul>	<ul style="list-style-type: none"> <li>– To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</li> </ul>	4km

<ul style="list-style-type: none"> <li>– Species-rich Nardus grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</li> <li>– Blanket bogs (* if active bog) [7130] <ul style="list-style-type: none"> <li>– Siliceous scree of the montane to snow levels</li> <li>– (Androsacetalia alpinae and Galeopsietalia ladani) [8110]</li> <li>– Calcareous rocky slopes with chasmophytic vegetation [8210]</li> <li>– Siliceous rocky slopes with chasmophytic vegetation [8220]</li> </ul> </li> <li>– Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</li> <li>– Otter (Lutra lutra) [1355]</li> </ul>		
<b>Wicklow Mountains SPA IE004040</b>		
<ul style="list-style-type: none"> <li>– A098 Merlin (Falco colombarius)</li> <li>– A103 Peregrine (Falco peregrinus)</li> </ul>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.	3.8km
<b>Ballyman Glen SAC IE000713</b>		



<ul style="list-style-type: none"> <li>– Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>– Alkaline fens [7230]</li> </ul>	<p>To restore the favourable conservation condition of the qualifying interests for the site is identified</p>	<p>12km</p>
<p><b>Knocksink Wood SAC IE000725</b></p>		
<ul style="list-style-type: none"> <li>– Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>– Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</li> <li>– Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</li> </ul>	<p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>9.2</p>
<p><b>South Dublin Bay SAC IE0000210</b></p>		
<ul style="list-style-type: none"> <li>– Mudflats and sandflats not covered by seawater at low tide</li> <li>– Annual vegetation of drift lines [1210]</li> <li>– Salicornia and other annuals colonising mud and sand [1310]</li> <li>– Embryonic shifting dunes [2110]</li> </ul>	<p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>8.5km</p>
<p><b>South Dublin Bay and River Tolka Estuary SPA IE0004024</b></p>		
<ul style="list-style-type: none"> <li>– Light-bellied Brent Goose (Branta bernicla hrota) [A046]</li> <li>– Oystercatcher (Haematopus ostralegus) [A130]</li> <li>– Ringed Plover (Charadrius hiaticula) [A137]</li> <li>– Grey Plover (Pluvialis squatarola) [A141]</li> </ul>	<p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and the Annex II species for which the SAC has been selected.</p>	<p>8.5km</p>

<ul style="list-style-type: none"> <li>– Knot (<i>Calidris canutus</i>) [A143]</li> <li>– Sanderling (<i>Calidris alba</i>) [A144]</li> <li>– Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>– Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>– Redshank (<i>Tringa totanus</i>) [A162]</li> <li>– Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>– Roseate Tern (<i>Sterna dougallii</i>) [A192]</li> <li>– Common Tern (<i>Sterna hirundo</i>) [A193]</li> <li>– Arctic Tern (<i>Sterna paradisaea</i>) [A194]</li> <li>– Wetland and Waterbirds [A999]</li> </ul>		
<b>North Dublin Bay SAC IE000206</b>		
<ul style="list-style-type: none"> <li>– Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>– Annual vegetation of drift lines [1210]</li> <li>– Salicornia and other annuals colonising mud and sand [1310]</li> <li>– Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</li> <li>– Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>– Embryonic shifting dunes [2110]</li> </ul>	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and the Annex II species for which the SAC has been selected.	13km

<ul style="list-style-type: none"> <li>– Shifting dunes along shoreline with white dunes (<i>Ammophila arenaria</i>) [2120]</li> <li>– Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li> <li>– Humid dune slacks [2190]</li> <li>– Petalwort (<i>Petalophyllum ralfsii</i>) [1395]</li> </ul>		
<b>Rockabill to Dalkey Island SAC IE0003000</b>		
<ul style="list-style-type: none"> <li>– 1170 Reefs</li> <li>– 1351 Harbour porpoise (<i>Phocoena phocoena</i>)</li> </ul>	To maintain the favourable conservation condition of the Annex I habitat(s) and the Annex II species for which the SAC has been selected.	14.5km
<b>North Bull Island SPA IE0004006</b>		
<ul style="list-style-type: none"> <li>– Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>– Shelduck (<i>Tadorna tadorna</i>) [A048]</li> <li>– Teal (<i>Anas crecca</i>) [A052]</li> <li>– Pintail (<i>Anas acuta</i>) [A054]</li> <li>– Shoveler (<i>Anas clypeata</i>) [A056]</li> <li>– Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</li> <li>– Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>– Grey Plover (<i>Pluvialis squatarola</i>) [A141]</li> </ul>	<ul style="list-style-type: none"> <li>– To maintain the favourable conservation condition of the Annex I habitat(s) and the Annex II species for which the SAC has been selected.</li> <li>– To maintain the favourable conservation condition of the wetland habitat as a resource for the regularly</li> </ul>	13km

<ul style="list-style-type: none"> <li>– Knot (<i>Calidris canutus</i>) [A143]</li> <li>– Sanderling (<i>Calidris alba</i>) [A144]</li> <li>– Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>– Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</li> <li>– Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>– Curlew (<i>Numenius arquata</i>) [A160]</li> <li>– Redshank (<i>Tringa totanus</i>) [A162]</li> <li>– Turnstone (<i>Arenaria interpres</i>) [A169]</li> <li>– Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>– Wetland and Waterbirds [A999]</li> </ul>	<p>occurring migratory waterbirds that utilise it.</p>	
<b>Dalkey Islands SPA IE004172</b>		
<ul style="list-style-type: none"> <li>– A192 Roseate Tern (<i>Sterna dougallii</i>)</li> <li>– A193 Common Tern (<i>Sterna hirundo</i>)</li> <li>– A194 Arctic Tern (<i>Sterna paradisaea</i>)</li> </ul>	<ul style="list-style-type: none"> <li>– To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.</li> </ul>	<p>14.3km</p>

Many of the identified sites do not have connections or pathways to the application site, being hydrologically upstream or in a different catchments, or at such remove that the development will not impact on the qualifying interests thereof. Furthermore, the screening report notes that in respect of SPA sites, there is no potential for ex-situ disturbance or loss of roosting / foraging habitat for qualifying interests. The report therefore screens out the following sites:

- Glenasmole Valley SAC
- Wicklow Mountains SAC
- Knocksink Wood SAC
- Ballyman Glen SAC
- Wicklow Mountains SPA

I consider that this conclusion to be reasonable.

In respect of Rockabill to Dalkey Island SAC, having regard to the defined attributes and targets for this site and the location and scale of development, I do not consider that significant impacts on the conservation objectives of this site are likely.

Wastewater will connect to the mains urban sewer network which will drain to Ringsend Treatment works for processing prior to discharge to Dublin Bay. While there are no watercourses on the site or in its vicinity which would provide a pathway for accidental discharge or spills to European sites, surface water connects to the public surface water network and flows to the River Dodder, approx. 2km downstream from the site. This then then flows to the River Liffey and into Dublin Bay. The screening report notes that there are indirect hydrological connections via the foul and surface water drainage networks to the following sites:

- South Dublin Bay SAC
- North Dublin Bay SAC
- South Dublin and River Tolka SPA
- North Dublin Bay SPA
- Dalkey Islands SPA

### 12.2.3. Assessment of Likely Significant Effects

The proposed development will not result in any direct loss of habitat within Natura 2000 sites and no potential for habitat fragmentation. Similarly, having regard to separation from European sites, construction or operational activity thereon will not result in any disturbance or displacement of qualifying interests of the identified sites. The habitats within or adjoining the site are not of value for qualifying species of these Natura 2000 sites. The site has previously been disturbed and does not provide suitable roosting or foraging grounds and no ex-situ impacts on qualifying species are therefore considered likely.

Potential indirect effects on European sites are identified in respect of surface and wastewater drainage from the proposed development.

Having regard to the separation distance and indirect nature of the surface water connection, any silt or other pollutants entering the surface water network are likely to settle, be dispersed, or diluted within the public drainage networks prior to discharge into Dublin Bay. I concur therefore with the Screening Report that significant effects in this regard are not likely.

Irish Water have identified network capacity upgrades required to facilitate the proposed development; however, these are understood to relate to the intervening network capacity rather than treatment capacities at Ringsend WWTP. This plant operates under an EPA licence. While further upgrade of the plant is planned / underway, the additional discharge from the proposed development would equate to a very small percentage of the overall licenced discharge and would not therefore have a significant impact on the water quality within Dublin Bay

The indirect pathway of surface water discharge or foul water flows to Ringsend WWTP are not therefore considered likely to result in a significant effect on the Natura 2000 network.

#### 12.2.4. In-Combination / Cumulative Impacts:

In terms of in-combination effects, the Screening Report notes the extensive planning history and development which has been permitted / constructed on adjoining lands. Completed works are noted to include the surface water drainage network, which connects to the main sewer under the M50. The report concludes

that having regard to assimilation and dilution between the site and Dublin Bay, no perceptible impact on water quality would occur from the proposed development in combination with other developments in the area. I regard this conclusion as reasonable having regard to the separation distance and indirect nature of the connection.

I note that permission was granted by the Board in April 2019 for the upgrading of the Ringsend WWTP under ABP ref. ABP-301798-18, which works are currently underway. In granting permission, the Board undertook an Appropriate Assessment of the development and concluded that that, by itself or in combination with other plans or projects, the proposed development would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives.

Documentation and evidence provided in that case, including the EIAR, provide a reasonable basis to conclude that this proposed development would not be likely to give rise to significant effects on the conservation objectives of European Sites, either individually, or when taken together and in combination with other plans or projects. The increased loading on the plant arising from the development proposed herein will not be significant in the context of the wider city and the increased capacity of the plant.

I conclude that the proposed development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly or in combination with other plans and projects.

#### 12.2.5. Screening Determination Statement

On the basis of the information on file, which is considered adequate to undertake a screening determination and having regard to:

- the nature and scale of the proposed development on zoned and serviced lands,
- separation from European sites and the intervening land uses,
- the lack of direct connections to European Sites having regard to the Source-Pathway-Receptor model,

it is concluded that the proposed development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), Dalkey Island SPA (004172) 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 Conclusions and Recommendation**

The proposed development is regarded as acceptable in principle on these zoned lands on the edge of the urban area and comprising part of the wider development of this area. The lands have been the subject of previous planning permissions for residential development.

I note the inconsistencies in application documentation raised by observers and in particular the failure to identify the powerline wayleave on the site location map. I have concluded that these inconsistencies may be regarded as de minimus and not material, and that they have not prejudiced third parties in the application. I note that the Commission for Energy Regulation made no submission on the application.

The development will materially contravene provisions of the Development Plan and LAP, however, having regard to Section 9(6)(c) of the 2016 Act, it is considered that these contraventions would be justified.

I consider that the design, density and layout is acceptable on these lands and that satisfactory levels of residential amenity would be achieved. I note the proposed Build-to-Rent nature of the development and the provisions of the relevant guidelines in this regard. It is not considered that the development would give rise to undue traffic or transportation impacts and I note that the planning authority raise to objection to the development in this regard.

I consider that the likely childcare demands can be satisfactorily accommodated within the proposed facilities on the adjoining lands and that restrictions on development pending the development of schools in this area, for which the Dept. of Education have not identified demand at this time, would not be reasonable.



Occupation of development should be subject to completion of identified upgrade works to Irish Water networks. Surface water management proposals are satisfactory and I note that the planning authority have not raised any objections in relation to flood risk.

It is not considered that the development is likely to give rise to significant effects on any European Site.

Having regard to the foregoing, I recommend that the Board grant permission for the proposed development subject to such conditions and modifications to the proposed development as it specifies in its decision in accordance with section 9(4)(b) of the Act, as set out below.

## 14.0 Recommended Order

### **Planning and Development Acts 2000 to 2019**

#### **Planning Authority: South Dublin County Council**

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 2<sup>nd</sup> Day of June 2021 by Ardstone Homes Limited care of Tom Phillips and Associates, 80 Harcourt Street, Dublin 2.

#### **Proposed Development:**

The development will consist of the construction of 114 no. Build to Rent residential units (a long-term rental housing scheme) (c.10,846 sqm GFA) in 6 no. apartment / duplex blocks, ranging in height from 3 - 6 storeys. The development will provide 32 no. 1 bed, 53 no. 2 bed units and 29 no. 3 bed Build to Rent units as follows:

- Block A is a part 6, part 4-storey apartment block comprising 47 No. units (26 no 1 bed units and 21 no. 2 bed units). Block A includes balconies on southern, northern and western elevations. Residential Tenant Amenities comprising c.110 sqm is provided at lower ground floor level of Block A to serve all residential units, comprising a reception area, residents lounge and multipurpose room.

- Block B is a 3-storey duplex block comprising 11 No. units (2 no. 1 bed apartments, 5 no. 2 bed apartments and 4 no. 3 bed duplex units). Block B includes balconies / terraces on western and northern elevations.
- Block C1 is 3-storey duplex block comprising 15 No. units (2 no. one bed units, 7 no. 2 two bed units and 6 no. three bed units). Block C1 comprises balconies / terraces on the eastern and northern elevations
- Block C2 is 3-storey duplex block providing 19 no. units (2 no. one bed units, 9 no. 2 two bed units and 8 no. three bed units). Block C2 includes balconies / terraces on western and northern elevations.
- Block D is a 3-storey duplex block providing 18 no. units (9 no. 2 bed apartments and 9 no. 3 bed duplex units). Block D comprises terraces on western elevation.
- Block E is a 3-storey duplex block comprising 4 No. units (2 no. two bed units and 2 no. 3 bed units). Block E comprises terraces on southern elevation.

The development will also provide 98 no. car parking spaces and 198 no. cycle parking spaces. The main vehicular access to the scheme will be from Stocking Avenue, via White Pines Dale. An additional emergency vehicular access point will also be provided from Stocking Ave, to the northeast of the site, facilitating access for emergency vehicles only. This access will also facilitate access for pedestrians and cyclists.

All other ancillary site development works to facilitate construction, site services, piped infrastructure, 1 no. ESB sub-station, plant, public lighting, bin stores, bike stores, boundary treatments and provision of public and private open space including hard and soft landscaping, plant, provision of public and private open space areas comprising hard and soft landscaping, site services all other associated site excavation, infrastructural and site development works above and below ground.

The proposed development occurs on lands south of Stocking Avenue, Dublin 16.

#### 14.1. **Decision**

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

#### 14.2. **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.

#### 14.3. **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 for Residential purposes.
- (b) the policies and objectives in the South Dublin County Council Development Plan 2016-2022; and Ballycullen – Oldcourt Local Area Plan (2014).
- (c) the provisions of the National Planning Framework with regard to compact growth and the provision of new homes within existing settlements;
- (d) the provisions of the Dublin Metropolitan Area Strategic Plan (MASP), part of the Eastern & Midland Regional Assembly RSES 2019-2031.
- (e) the provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016.
- (f) the provisions of 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 (2020);
- (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) the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (i) the '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 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 educational, social, community and transport infrastructure,
- (m) the pattern of existing and permitted development in the area, and the planning history relating to the site and the wider area.
- (n) the Report of the Chief Executive of South Dublin County Council.
- (o) the submissions and observations received.
- (p) the report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to screening for 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 an environmental impact assessment of the proposed development, taking into account:

- (a) the location, nature, scale and extent of the proposed development.
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the planning application.
- (c) the submissions from the Chief Executive and the prescribed bodies in the course of the application, and the submissions received from Observers.
- (d) the 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.

### **Reasoned Conclusions on the Significant Effects:**

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

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 where required, as follows:

Potential construction noise and vibration impacts on nearby sensitive receptors, which will be mitigated by the following measures:

- The short-term nature of construction impacts.
- Implementation of an agreed Construction Management Plan and adherence to identified emission limit values.
- Limiting the hours of construction.
- The selection and location of plant to minimise emissions.
- Monitoring of noise and vibration during critical periods and at sensitive locations.
- Establishing channels of communication with Local Authority and residents.

Potential impacts on air quality and climate, biodiversity and human health from dust emissions at construction stage, which will be mitigated by the following measures:

- Implementation of the Construction Environment Management Plan incorporating a Dust Management Plan.
- Monitoring of dust deposition levels (via the Bergerhoff method) at a number of nearby sensitive receptors.
- Implementation of on-site practices for vehicles to avoid idling engines.
- Minimising generation of waste materials.

A significant change in the use of lands to urban, residential use, which will be mitigated by the following measures:

- The limited and relatively constrained site area and absence of current agricultural use thereof.
- The zoned nature of the land and the identified need for housing in the region.

Potential significant effects on land and soil during construction, which will be mitigated by the following measures:

- Implementation of a Construction Environmental Management Plan, incorporating a Construction Traffic Management Plan.
- Implementation of an agreed Construction and Demolition Waste Management Plan and reuse of substantial volumes of excavated materials on-site.
- Construction management measures to control potential run-off and dust generation, and to reduce compaction and erosion of soils.

Potential significant effects on Landscape and Visual Amenity, which will be mitigated by the following measures:

- The surrounding pattern of suburban development in the area.
- Implementation of construction site management procedures set out in the Construction Environmental Management Plan.
- Appropriate design, massing and finishes to the proposed development.
- Site landscaping and provision of additional public spaces.

Potential significant indirect effects on water and hydrology, which will be mitigated by the following measures:

- Implementation of a site-specific Construction Environmental Management Plan to control potential emission of sediment or contaminants to water.
- Connection to Irish Water networks on completion of identified upgrade works.
- The design and maintenance of the storm water management and attenuation system.
- Maintenance of overland storm flow routes free of obstruction.

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) in relation to building height, and the Ballycullen – Oldcourt Local Area Plan (2014) in relation to residential density and dwelling mix, and the phasing strategy. 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 proposed development is in accordance with the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and delivers on the Government's policy to increase the delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness. The proposed development is therefore considered to be strategic in nature.



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 of the South Dublin County Development Plan 2016 - 2022, 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 encourage higher densities and efficient use of lands, at appropriate locations, 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, 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):

In relation to building heights, permission for the development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework. In particular, regard is had to 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 (including 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.

In relation to residential densities, regard is had to The Sustainable Residential in Urban Areas, Guidelines for Planning Authorities, the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031, , the National Planning Framework and in particular National Policy Objective 35, and the provisions of Sustainable Urban Housing: Design Standards for New Apartments

Design, Guidelines for Planning Authorities promote increased densities on such sites.

In relation to housing mix, the Sustainable Urban Housing: Design Standards for New Apartments Design, Guidelines for Planning Authorities identify the need for a mix of apartment types to reflect trends in household formation and housing demand. SPPR 8 of these guidelines state that in the case of BTR development, restrictions on dwelling mix should not apply.

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

In relation to building heights, residential densities and dwelling mix, the Board noted the recent approvals for Strategic Housing Developments in the surrounding area since the adoption of the County Development Plan and Local Area Plan. In particular, regard was had the decision to grant permission under ABP ref. ABP-309836-21 to the north of the subject site, within the LAP area. Regard was also had to permission granted in the wider area at Scholarstown Road (ABP Reference ABP-305878-19) and Edmonstown Road (ABP reference ABP-307222-20). The Board therefore considered that permission for the proposed development should be granted for the building heights, residential densities and mix of dwellings proposed having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

In respect of the phasing strategy of the Ballycullen Oldcourt Local Area Plan, the Board notes the grant of planning permission for childcare facilities on adjoining lands to the west under reference SD19A/0345 (as amended under reference SD20A/0322) and for community facilities on lands to the north under ref ABP-309836-21, which will serve this wider area and satisfy the requirements of the phasing strategy. The Board also had regard to the grant of planning permission under PA ref. SD21A/0137, for a post-primary school within the LAP lands and current identified trends in primary school enrolment in the area.

The Board therefore considered that in respect of the phasing of construction of the designated Primary School on the eastern side of the Plan lands and the Primary School and/or Post-Primary School on the western side of the Plan Lands,

permission for the proposed development should be granted having regard to the pattern of development and permissions granted since the adoption of the LAP.

## 15.0 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall 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 EIAR '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) Block C2 shall be omitted from the proposed development and this area of the site shall be subject to a separate planning application for the development of dwelling units of reduced height and prominence on the site.
  - (b) Additional set-down parking shall be provided adjacent to dwelling units in Block B.

(c) Revised layout plans and landscaping details shall be provided identifying how access to communal and public open space can be improved, having regard to the principles of universal access.

Revised drawings showing compliance with these requirements 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.

4. Prior to the commencement of development, the developer shall submit details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of fifteen years shall be from the date of occupation of the first residential unit within the scheme.

**Reason:** In the interests of proper planning and sustainable development of the area

5. Prior to expiration of the 15-year period referred to in the covenant, the developer shall submit ownership details and management structures proposed for the continued operation of the entire development as a Build to Rent scheme. Any proposed amendment or deviation from the Build to Rent model as authorised in this permission shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings / buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority / An Bord Pleanála 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

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. Proposals for an estate / street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility.

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

**Reason:** In the interests of amenity and public safety

10. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

(b) Prior to the commencement of development, details of the design of the pedestrian crossing of Stocking Avenue along the frontage of the site in accordance with the principles set out in the Design Manual for Urban Roads and Streets (DMURS) shall be submitted to and agreed in writing with the planning authority.

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

11. (a) Prior to the first occupation of the development, a finalised 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.

(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 units 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.

12. Bicycle parking spaces shall be provided within the site in accordance with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020). Revised details of the number, layout and design, marking demarcation and security provisions for these spaces shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

13. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit 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

14. Prior to the commencement of development, final details of the noise mitigation measures identified in section 12.6.3 of the submitted Environmental Impact Assessment Report in respect of the façade treatment of proposed dwelling units shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interests of residential amenity.

15. 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.

16. (a) Drainage arrangements including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.

- (b) 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.
- (c) 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.
- (d) A maintenance policy to include regular operational inspection and maintenance of the SUDS infrastructure and the petrol/oil interceptors should be submitted to and agreed in writing with the planning authority prior to occupation of proposed dwelling units, and shall be implemented in accordance with that agreement.
- (e) The mitigation measures identified in the site-specific flood risk assessment, prepared by DBFL, shall be implemented in full.

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

17. (a) The developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development. All development is to be carried out in compliance with Irish Water Standards codes and practices.
- (b) No unit shall be occupied until the Ballycullen / Oldcourt Local Network Reinforcement Project (LNRP) and any associated network extension identified by Irish Water, is complete and commissioned, 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



18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (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,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

19. The site shall be landscaped and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development. The landscaping scheme shall be amended to incorporate the following:

- (a) Measures to satisfactorily define and delineate communal residential amenity space from areas of public open space.
- (b) Additional planting and landscaping to enclose and screen surface car parking, particularly to the south of Block A.

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 the interest of residential and visual amenity

20. The measures and features identified in the Biodiversity Management Plan, prepared by Altemar Ltd, shall be implemented in full.

**Reason:** In the interest of amenity, ecology and sustainable development.

21. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- b) Location of areas for construction site offices and staff facilities.
- c) Details of site security fencing and hoardings.
- d) Details of on-site car parking facilities for site workers during the course of construction.
- e) A Construction Traffic Management Plan providing 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.
- f) Measures to obviate queuing of construction traffic on the adjoining road network.
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any footpath, cyclepath or public road during the course of site development works.
- i) Details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels.
- j) 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.

- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- m) 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.

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

22. Prior to the commencement of development on the site, proposals to address the matters raised in the submission of the Department of Defence on this application, dated 24<sup>th</sup> June 2021, shall be submitted to and agreed in writing with the planning authority.

**Reason:** To protect operations at Casement Aerodrome, in the interests of public safety

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

**Reason:** In the interest of sustainable waste management.

24. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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

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

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

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

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

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.

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Conor McGrath  
Senior Planning Inspector

01/09/2021

## **Appendix A:**

### **Documentation accompanying the application:**

- Planning Application Form and appropriate fee
- Copies of letters issued to prescribed bodies
- Copies of public notices
- Statement in Response to An Bord Pleanála Opinion
- Planning Report
- EIAR
- Statement of Consistency
- Material Contravention Statement
- Community Infrastructure Audit
- Childcare Facility Audit
- School Needs Assessment
- Sets of Architectural Drawings
- Architectural Design Report
- Housing Quality Assessment
- Sets of Engineering Drawings
- Infrastructure Design Report
- Site Specific Flood Risk Assessment
- Traffic and Transport Assessment
- Preliminary Construction Management Plan
- DMURS Design Statement
- Parking Strategy
- Energy and Sustainability Report
- Residential Lighting Analysis
- Sets of Landscape Drawings
- Landscape Report
- Planting Schedule and Outline Maintenance Specification
- Outline Softworks Specification,
- Arboricultural Assessment, Tree Surveys and Tree Survey Drawings
- Verified Views and Photomontages
- Building Lifecycle Report (including draft Section 47 Agreement)
- Appropriate Assessment Screening Report
- Biodiversity Management Plan
- Daylight Sunlight Report
- Mobility Management Plan
- Accessibility Statement