



An
Bord
Pleanála

Inspector's Report ABP 311401-21

Development	62 dwellings.
Location	Coolroe, Ballincollig, Co. Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	20/39743
Applicant	CLBK Construction Services Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. Refusal
Appellant	CLBK Construction Services Ltd.
Observers	1. An Taisce 2. Mairead O'Donoghue 3. Kieran Cooke 4. Classes Lake Residents Assoc. 5. Valerie Kelly 6. Regina Kelleher 7. Anthony Mannix

- 8. Anthony Sweet
- 9. Francis Brosnan

Date of Site Inspection

22/11/21

Inspector

Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 2.030 hectares is located in the townland of Coolroe, accessed via the larger Classes Lake housing estate (also referenced as Classis Lake) c.2 km to the west of Ballincollig shopping centre. The Classes Lake housing estate is accessed from the R608 via a signalised junction.

The site is roughly rectangular in shape and slopes down from south/south-east to north. It is overgrown in places with trees noted in the eastern section. The lands to the north are undeveloped and are covered in mature woodland separating the site from Wood Road. 2 storey, semi-detached and detached houses in Westcourt Heights back onto the site to the east with a block wall delineating the shared boundary. The appeal site extends to the said cul-de-sac in the south-eastern most corner. The 2 storey, semi-detached dwellings of The Willows cul-de-sac front onto the site to the south-west and back onto the site to the south-east, with the boundary delineated by a hedgerow. The Sycamores, also a cul-de-sac of 2 storey, semi-detached dwellings bounds the site to the south-west with open space areas bounding the site to the west, the boundary of which is delineated by a hedgerow.

2.0 Proposed Development

The application was lodged with the planning authority on the 10/12/20 with further plans and details including revised public notices received 23/07/21 following a further information (FI) request dated 12/02/21.

As amended, the proposal entails 60 no. dwellings in the following arrangement:

- 4 no. 4 bedroom dwellings (4 no. house types)
- 47 no. 3 bedroom dwellings (6 no. house types)
- 9 no. 2 bedroom dwellings (2no. house types)

Vehicular access is proposed from The Sycamores to the west and The Willows to the south. Pedestrian paths are proposed to connect to Westcourt Heights to the west and The Willows to the west/south-west. Potential future connection via the existing wooded area bounding the site to the north to Wood Road and onto Ballincollig Regional Park is provided for.

Public open space equating to 1923 sq.m. along the southern boundary is proposed with a further area of 886 sq.m. proposed along the northern boundary.

The application is accompanied by:

- Opinion from Senior Counsel regarding access/connection via roads and services on adjoining lands
- 12 Point Design Appraisal
- Part V Proposal
- Transport Impact Assessment Report (amended by way of FI)
- Landscape Design Rationale and Landscape Specifications
- Engineering Services Report
- Lighting and Power Specification
- Ecological Impact Assessment
- Stage 1 AA Screening Report
- Stage 1 & 2 Road Safety Audit (submitted by way of FI)
- Outline Construction Waste Management Plan (submitted by way of FI)
- Outdoor Lighting Report (submitted by way of FI)

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the above described development for two reasons which can be summarised as follows:

1. The layout and design at the north-east corner of the site (house nos. 42-47) would result in a substandard form of development and would seriously injure the amenities of future occupants. The design of house no.60 is at variance with the character of the houses to the immediate north and would have a negative impact on the visual amenities of the area.

2. On the basis of the information submitted the planning authority is not satisfied that the development can deliver appropriate access to the site or that the applicant has sufficient legal interest to enable the carrying out of the proposed development and access to the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

1st Assistant Planner's report dated **13/02/21** notes:

- The density of 30 units per hectare is acceptable in the context of the site location on the urban edge of Ballincollig and the character of the surrounding area.
- The housing mix and site layout could be improved.
- Linkages and connections are consistent with proper planning and sustainable development.
- Issues arising with respect to access and roads raised in other internal reports noted.
- The Classes Lake development was permitted in the late 1990s/early 2000 which predates current standards and policy on more sustainable modes of transport and mobility and estate layout and design.
- The legal opinion accompanying the application does not address the works required to the entrances and if there is consent to carry out the works which are outside the red line site boundary.

FI recommended.

The **A/Senior Executive Planner's** report dated **19/09/21** following FI notes:

- Works are required outside the red line boundary to ensure access to the site. The existing road verge does not extend to the application site boundary. Further, these lands are not within the control of the application. There is a missing tract of land between the road edge and entrances to the site. This is necessary to provide access and to complete the access to the site. These areas should be included within the red line in addition to written consent from

the landowner. The applicant has not demonstrated sufficient legal interest to access the site and carry out the necessary works.

- The design and layout of the houses in the north-east corner, nos. 42 and 47, and the design of house no.60 are unsatisfactory and raise visual amenity and residential concerns.

A refusal of permission for 2 no. reasons recommended.

The **Senior Planner** in a report dated **19/08/21** considers that it is unfortunate that the applicant did not take the opportunity to fully address the issue of access to the site by including all the works required to link to the existing road network within the red line boundary with appropriate legal interest. In the absence of such details it is unclear as to how the site can be accessed. The above recommendation to refuse permission is endorsed.

3.2.2. Other Technical Reports

1st report from **Traffic Regulation and Safety Report** dated **12/01/21** recommends FI seeking junction analysis of the Classes Lake/R608 signalised junction and a Stage 1/2 road safety audit. The **2nd report** dated **13/08/21** following FI recommends a condition be attached that no changes to the signalised junction are permitted with all recommendations of the road safety audit to be incorporated into the design. No objection subject to conditions.

1st report from **Urban Roads and Street Design (Planning)** dated **03/02/21** states that the applicant is required to create connectivity and permeability linkage for pedestrian/cyclists through the existing estate to the R508 whilst modifications to the internal road layout to include traffic calming measures are required. A refusal of permission for 1 reason recommended. The **2nd report** dated **18/08/21** considers that the issues in terms of internal road access and parking have been addressed. No objection subject to conditions.

Infrastructure Development Directorate in a report dated **05/02/21** notes that it is currently progressing a project to develop a cycle and pedestrian link from Classes Lake and Westcourt Heights to Ballincollig Regional Park. The proposal to create vehicular connection between The Sycamores and The Willows and the proposal to create a pedestrian access to Westcourt Heights is welcomed. Access from the

development. A future cycle link connection at the northern boundary of the site is required. Conditions to be attached should permission be granted detailed.

1st Area Engineer's report dated **08/02/21** notes:-

- There is a discrepancy between the development boundary and the applicant's landholding, in particular at the south-east of the site. It includes a triangular section of ground to the south of No.8 Westbury Heights which is not shown on the Land Registry Compliant map and does not appear to be in the applicant's ownership.
- There are works proposed at the 2 no. proposed entrances which are not included in the planning development boundary.
- No sections/details show the gradient difference between the existing road at the entrances and finished road level within the development.
- Comments in Traffic Regulation and Safety Report endorsed.
- On street parking is prevalent along sections of the approach routes. The proposal will exacerbate congestion and obstruction of road users and restricted sightlines.
- FI required on surface water.

A refusal of permission for 1 reason recommended.

The above recommendation was endorsed by the Senior Executive Planner in a report dated 12/02/21.

The **Part V** report dated **08/02/21** recommends Part V detail should FI be sought. Otherwise condition to be attached.

1st report from **Environment Section** dated **01/02/21** recommends FI seeking waste management plan and construction management plan. **2nd report** dated **02/02/21** has no objection subject to amendments to the proposed open space area to the south requiring omission of 2 no. dwelling units. **3rd report** dated **09/08/21** following FI has no objection subject to conditions.

1st and **2nd Drainage** reports dated **10/02/21** & **17/08/21** have no objection subject to conditions.

Contributions Reports dated **02/02/21** & **12/08/21** set out the contributions requirements.

Archaeologist in a report dated **09/02/21** has no objection subject to conditions.

Heritage Officer in a report dated **12/02/21** is satisfied that the issue of cumulative impact and badger survey are satisfactorily dealt with. Mitigation measures outlined in the ecology report to be implemented in full.

3.3. **Prescribed Bodies**

Inland Fisheries Ireland in a letter dated **05/01/21** recommends that Irish Water be requested to confirm that there is sufficient capacity in the public sewer to accommodate the development.

Irish Water in a report dated **10/02/21** has no objection subject to conditions.

Transport Infrastructure Ireland in a letter dated **13/01/21** recommends that the development be undertaken strictly in accordance with the recommendations of the Transport (Traffic Impact) Assessment.

An Taisce in a letter dated **22/01/21** considers that the Traffic and Transport Assessment has not addressed how the proposal will contribute to achieving sustainable mobility and reducing car dependence in the area in line with Smarter Travel targets. Impact on local fauna and flora not adequately addressed. Adequacy of services to accommodate the development also needs to be established.

3.4. **Third Party Observations**

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the observations summarised in section 6 below.

4.0 Planning History

Reference is made in the Planner's report to permission granted under ref. 98/2667 for 42 dwellings on the site.

5.0 Policy Context

5.1. Development Plan

Ballincollig Carrigaline Municipal District Local Area Plan 2017

The site is within 'existing built up area'.

Objective BG-GO-01 – to secure the development of 4033 new dwellings in Ballincollig between 2017 and 2022 in order to facilitate sustainable growth of the town's population.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Collins, Maher, Martin Architects on behalf of the 1st party, which is accompanied by amended plans, can be summarised as follows:

6.1.1. *Reason for Refusal No. 1 – House Design and Layout*

- Revised plans accompany the appeal showing re-alignment of house nos. 42-47.
- The shortfall in private open space was very minor. It abuts a mature, forested area resulting in an above normal quality of private open space. The only dwelling with a shortfall was No.44 which is a 2 bedroom terraced unit.
- Nos. 46 and 47 are single storey and will not result in overlooking of adjoining property. The potential for them to be overlooked could be dealt with by way of increased boundary height.

- The boundary treatment to the front of Houses 46 and 47 is consistent with the front boundary treatment in the remainder of the development.
- House No.60 shared the same materials palette, elevational proportions and vertical window openings as the existing houses to the north. The two storey window bay to the left side of the front elevation forms a 'book end' stop to this street elevation. It is not at variance with the character of adjoining houses. A revised design is submitted with the appeal.

6.1.2. Reason for Refusal No.2 – Access and Legal Interest

- The lands subject of the application are served by public roads within the charge of the road authority. They were constructed on foot of permission granted under ref. PL04.110123 (s/98/2278) which, by condition, required the road access (The Sycamores) be completed up to the boundary of the lands subject of this application.
- Cork County Council as roads authority in a letter dated 18/12/18 confirmed that the road giving access to the west of the application site was in its charge to the boundary of the lands subject of the application.
- Given that it was expressly required that the road be completed up to the boundary and that the road, including ancillary landscaping, has been taken in charge up to the boundary no question arises but that access is available and that the road authority has the statutory power and duty in respect of maintenance and improvement of that road. Any improvement of the road can be provided for by development contribution if required.
- The Supreme Court has held that there is a well-established common law right of access from adjoining land onto a public right of way (*Sligo Corporation v. Gilbride* (1929) ILTR 105).
- Irish conveyancing practice relies on confirmation of the status of a route as a public road by the road authority.
- It is not open to the Board to look behind the confirmation as to the status of the road providing access to the application site provided by Cork County Council.

6.2. Planning Authority Response

None

6.3. Observations

Observations have been received from:

1. An Taisce
2. Mairead O'Donoghue
3. Kieran Cooke
4. Classes Lake Residents Assoc.
5. Valerie Kelly
6. Regina Kelleher
7. Anthony Mannix
8. Anthony Sweet
9. Francis Brosnan

The submissions can be summarised as follows:

6.3.1. *Legal Interest*

- There are ongoing issues regarding legal access at The Sycamores.
- The roads and services taken in charge do not extend to grass areas or boundary ditches.
- Classes Land Ltd. is the registered land owner with the council having taken the roads, footpaths and lights in charge, only. Permission has not been sought from Classes Land Ltd.
- Classes Lake Residents Association has been maintaining the greens, trees and hedgerows since 2009.
- The correspondence from Cork County Council accompanying the appeal, including the map, is considered to be deficient. No reference is made to The Willows from which access is also proposed.

6.3.2. **Road and Access**

- The Traffic and Transport Assessment has not addressed how the proposal will contribute to achieving sustainable mobility and reducing car dependence in the area in line with Smarter Travel targets. It must be demonstrated that the proposal will not contribute further to the existing, unsustainable, modal split.
- It is unclear if the turnabout at The Sycamores is to be extended into the green area. This would reduce the green area and require removal of trees which is unacceptable.
- Roads serving the site are inadequate to accommodate the additional vehicular movements.
- The current access is through the Westcourt Estate. This should be considered for the vehicular access.
- The Traffic and Transport Assessment and Road Safety Audit are deficient.
- Traffic counts at the signalised junction on the R608 were not carried out. The junction is very busy and congested.
- Adverse impact on children safety.
- Additional vehicular movements and disruption during the construction period.

6.3.3. **Design and Layout**

- The density is excessive.
- The layout is deficient and would adversely impact the amenities of adjoining property and prospective occupants.
- The house designs are out of character with that existing in the vicinity.
- The proposed alterations to House No.60 does not result in a reduction in the ridge height which is 1.7 metres higher than adjoining dwellings. It will have an adverse impact on the amenities of adjoining property.
- House Nos. 54-59 are close to the boundaries with the dwellings in Westbury Heights. The house type should be changed to single storey or relocated.
- It does not provide adequate social and recreational facilities on the site.

6.3.4. **Other Issues**

- Adverse impact on wildlife. The hedgerow at The Sycamores should be retained. Cumulative impact of habitat loss in the area requires evaluation.
- Potential increase in anti-social behaviour.
- Date of planning application and notifications.
- The development should have included a reservation to the wooded area to north.
- The Construction and Demolition Plan is deficient.
- Redesign required to ensure that there is no overflow of the storm water attenuation tank that would cause localised flooding.
- Need to ensure sufficient capacity in wastewater treatment plant to accommodate the development.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

- Principle of Development
- Legal Interest
- Access and Traffic
- Layout and Design
- Other Issues
- Environmental Impact Assessment
- Appropriate Assessment

7.1. **Principle of Development**

- 7.1.1. The site is within the existing built up area as delineated for Ballincollig in the Ballincollig Carrigaline Municipal District Local Area Plan 2017 wherein development which does not detract from the amenities of adjoining property would be favourably considered. It is one of the last remaining undeveloped tracts of land within the

Classes Lake area with the site bounded by established residential to the east, west and south. A band of mature vegetation to the north separates the site from Wood Road.

- 7.1.2. In principle, therefore, a residential scheme would accord with the prevailing pattern of development in the vicinity and would assist in the realisation of objective BG-GO-01 of the LAP which seeks to secure the development of 4033 new dwellings in Ballincollig between 2017 and 2022.

7.2. Legal Interest

- 7.2.1. The issue of legal interest constitutes a substantive issue arising in the case. The planning authority is not satisfied that the applicant has demonstrated sufficient legal interest to carry out the necessary access works due to the fact that there is an area of ground between the proposed entrances and the road edges within the adjoining residential estate which are not within the site boundary on which works are proposed.
- 7.2.2. Two access points are proposed. The 1st is from The Sycamores to the west. This is a cul-de-sac terminating in a turning circle with the area to the north in open space and a pedestrian path to the south allowing for connectivity to The Brambles. There is a narrow grass verge alongside the site boundary which is delineated by a hedgerow.
- 7.2.3. The 2nd access is proposed from The Willows which, itself, is accessed from The Brambles. The Willows is also a cul-de-sac with a grass verge including a triangular grassed area where the cul-de-sac turns left alongside the site boundary. The said boundary is delineated by a hedgerow.
- 7.2.4. The extent of the works required to allow for the development to tie into the adjoining road network is delineated on drawing number 20133-02 Rev A submitted with the application and 20133-02 Rev B submitted by way of further information.
- 7.2.5. There is no dispute that the roads and footpaths within both residential schemes have been taken in charge by the local authority. The issue is whether the grass verges across which works will be required to allow for connection to the access roads are also under the control of the Council with observers to the appeal of the view that they are not, and that the consent of the relevant landowner named as Classes Land Ltd. is required.

- 7.2.6. As per the legal opinion accompanying the application the governing permission for development of which The Sycamores forms part was permitted under ref. PL04.110123 (S/98/2278). Condition 2 attached to same required the major road access nominated as The Sycamores to be constructed up to the eastern boundary of the site. This is further supported by correspondence secured from Cork County Council dated 2018 which is accompanied by a map in which it is confirmed that the site as outlined in blue, ie. up to the appeal site boundary, has been taken in charge. Observers to the appeal contest the veracity of the said map.
- 7.2.7. I note the applicable Cork County Council Taking in Charge Policy for Private Housing Developments dated 17th October 2008 which provides for services such as roads and public open space to be taken in charge. Whilst it states that maintenance of grass verges/incidental open spaces adjacent to roads will not be carried by the Council I do not interpret this as definitive evidence that such spaces are not within the control of the Council.
- 7.2.8. A new turning bay area to serve The Sycamores is proposed in an area that I would classify as public open space. I would query the need for the said provision in view of the extension of the access road. I note that the Road Safety Audit recommends its removal to ensure adequate intervisibility (section 3.10).
- 7.2.9. On balance, I consider that the applicant has provided sufficient evidence of legal interest to make the application and to carry out works to allow for access to the site from The Sycamores to the west. This is not entirely evident in terms of the access from The Willows to the south. Were this not to be case the scheme could appropriately be served from the single access with very minor alterations to the layout required. I recommend that a condition be attached to a grant of permission stating that the said permission shall not be construed as any form of consent or agreement to works outside the site boundary as delineated on the map titled Land Registry Compliant Map submitted to the planning authority on the 23rd day of July, 2021. I also recommend that the applicant be informed of the provisions of Section 34(13) of the Planning and Development, Act, 2000, as amended, which states that a person shall not be entitled solely by reason of a permission to carry out any development.

7.3. Access and Traffic

- 7.3.1. The application is accompanied by a Transport Impact Assessment Report, amended by way of further information. A Road Safety Audit was also submitted by way of further information.
- 7.3.2. As noted above the scheme is to be served by two accesses, the first via The Sycamores to the west. It is approx. 6 metres wide with 2.5 metre wide footpaths to either side. The 2nd access is from The Willows to the south. It is approx. 5.5 metres wide with a 2.5 metre wide footpath on one side. Whilst on-street parking is noted to arise, restricting unimpeded two way vehicular movements, its prevalence was not evident on day of inspection although I accept that such patterns of parking would be more noticeable outside normal working hours.
- 7.3.3. As amended by way of FI vehicular movements arising from the proposed development are calculated to be 42 (two way) in the AM peak and 48 (two way) in the PM peak. Certainly there will be a change in the prevailing residential environment for the dwellings along the cul-de-sacs with increased vehicular movements arising but I consider that the roads are capable of accommodating same without giving rise to issues of vehicular or pedestrian safety and that the impact on the said amenities would not be so significant as to outweigh the benefits of providing for additional housing supply in line with national policy.
- 7.3.4. The Classes Lake development was permitted in the late 1990s/early 2000s which predates current standards and policy on more sustainable modes of transport and mobility and estate layout and design. The site is located at the northern most end of the estate, surrounded on three sides by typical, suburban housing development dominated by family sized units, served by off street carparking. The reliance on the car is evident in the wider area although a network of paths throughout the Classes Lake estate allowing for more direct pedestrian access to the R608 and onwards to the town centre prevail. Issues raised by observers as to the layout and arrangement of junctions elsewhere in the estate is not before the Board for adjudication and would be more appropriately addressed to the planning authority. Furthermore, the issues of adequacy or otherwise of the cycle links along the R608 are not within the remit of this application to resolve.

- 7.3.5. The proposed internal access routes within the proposed development have been designed to accord with the standards set out within the Design Manual for Urban Roads and Streets (DMURS) with recommendations set out in the Road Safety Audit which should be complied with in full. The proposed development entails pedestrian connections not only to the path that runs southwards from The Sycamores but also to Westcourt Heights to the east with provision made for potential future connection via the wooded area bounding the site to the north to Wood Road and onto Ballincollig Regional Park.
- 7.3.6. The larger Clashes Lake residential area is served by a signalised junction onto the R608 which also serves Lisheen Fields residential area to the south. The amended Transport Impact Assessment Report assesses the capacity of the junction having regard to the residential areas both north and south of the regional road in addition to the football club. As traffic counts were not conducted at the junction due to Covid restrictions the nearest recent traffic count for an office and multi storey car park development at Old Fort Road in Ballincollig granted permission under ref.19/4699 was used in the assessment. TRICS software was also used to generate the number of trips generated by the existing development north and south of the junction.
- 7.3.7. Observers to the appeal state that the junction is often congested with delays arising. They also contend that there are shortcomings in the assessment arising from the absence of a traffic count at the junction. Notwithstanding the survey used in its place the study demonstrates that the junction in the opening and design years will operate well within capacity. I accept the conclusion that the traffic that would be generated by the proposed development notably 30 outbound in the AM peak and 26 inbound in the PM peak, would represent a modest increase and can be accommodated at the junction.

7.4. Layout and Design

- 7.4.1. I submit that the appeal site at the northern-western extent of the Ballincollig development boundary as delineated in the LAP would be correctly identified as an outer suburban site. In such areas the Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities (2009) state that development should generally be undertaken at a density of 35-50 units per ha. and that

development should not be permitted at a density of less than 30 no. units per ha. Further, Circular NRUP 02/2021 states that while the Sustainable Residential Development Guidelines clearly encourage net densities of between 35-50 dwellings per hectare, net densities of less than 30 dwellings per hectare, although generally discouraged, are not precluded in large town locations. The circular further states that given the very broad extent of this range and variety of urban situations in Ireland, it is necessary for An Bord Pleanála and Planning Authorities to exercise discretion in the application and assessment of residential density at the periphery of large towns, particularly at the edges of towns in a rural context.

- 7.4.2. The proposal, as amended by way of further information, proposes 60 no. units on a 2.030 hectare site which equates to a density of just under 30 units per hectare. In view of the site's location at the northern most extent of the Classes Lake estate and the prevailing pattern of traditional suburban residential development surrounding it I consider that the density, as proposed, is acceptable in this instance.
- 7.4.3. The dwelling mix is dominated by 3 and 4 no. bedroom dwellings (85%) with 9 no. two bedroom units proposed and will largely reflect the prevailing house type available in the area thereby failing to capitalise on the opportunity to provide for a greater mix and variety.
- 7.4.4. The planning authority in its assessment of the application and by reason of its 1st reason for refusal considered that the layout and design of the units in the north-eastern corner of the scheme (units nos. 42-47), with specific regard to the private open space and potential for overlooking from adjoining properties, would give rise to a substandard form of development. The design of House No. 60 which will face onto Westcourt Heights was also considered to be unacceptable. A revised layout to address the matters arising accompany the appeal.
- 7.4.5. The provisions of the Quality Housing for Sustainable Communities Best Practice Guidelines are applicable. I am satisfied that the internal accommodation in the dwellings meets or exceeds the specifications of Table 5.1 of the guidelines in terms of space provision. As per the plans accompanying the application and amended in the layout plan accompanying the appeal submission the 3 and 4 bedroom units are served by private open space areas in excess of 60 sq.m. with the 2 bed units each served by areas in excess of 48 sq.m. These conform with the recommendations of

the Cork County Council Residential Design Guide 2011 (which are comparable to the minimum requirements as set out in Table 16.7 of the Cork City Development Plan). The reorientation of the dwellings in the north-eastern most corner results in their private open space being to the rear and, whilst the lengths of the gardens are somewhat constrained, notably in terms of house numbers 46 and 47, they back onto the mature woodland area to the north.

- 7.4.6. 2no. off street parking spaces for the detached and semi-detached units are proposed with grouped parking for the terraced units, also equating to 2 no. spaces per unit to be provided.
- 7.4.7. The proposed house designs, by providing for sufficient headroom at roof level to allow for future conversion, have a ridge height of in the region of 8.76 metres and is higher than the ridge height of the dwellings in the vicinity. Save for the contiguous elevation drawing along Westcourt Heights no section drawings have been provided but, as can be extrapolated from same, the dwellings in Westcourt Heights have a ridge height of in the region of 7.6 metres. The proposed dwellings backing onto the said dwellings in Westcourt Heights would be approx. 1 metre higher. I note that the grounds levels along the south-eastern boundary of the appeal site are higher than the adjoining lands. It is anticipated that levelling of the site will be required at this location. In view of the setback of the dwellings along the eastern boundary to the rear of the dwelling fronting onto Westcourt Heights and a minimum of 21.6 metres between opposing windows I do not consider the height differential to be material and in view of the separation distance between opposing windows no issues in terms of overlooking or overbearing impact arise.
- 7.4.8. The reorientation of house nos. 46 and 47 (single storey) to be at a right angle to the dwellings in Westcourt Heights would limit overlooking to their gardens which is not uncommon in such a suburban context. I consider that the amended layout addresses the planning authority concerns in this regard and provides for an acceptable level of amenity for prospective occupants.
- 7.4.9. To address the issues arising in the planning authority's 1st reason for refusal the design of house No. 60 with frontage onto Westcourt Heights has been modified with a reduced ridge height from 8.7 metres to 8.1785 metres, in addition to elevational alterations to provide for greater assimilation into the street elevation. The said

alterations are acceptable. It also provides for a 1st floor window opening providing for an element of passive surveillance to the adjoining open space and pedestrian path.

- 7.4.10. The Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' describe recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impact. However it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6).
- 7.4.11. In relation to daylight to existing buildings Section 2.2.4 of the BRE guidelines state that loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window as loss of light in these cases would be small.
- 7.4.12. I am satisfied that that proposal has a layout that reflects a standard suburban residential estate, as well as in scale and form, which will limit potential for reduced daylight and sunlight to surrounding properties. Having regard to the proposed separation distances of 21-22 metres from the proposed 2-storey dwellings to the existing adjacent dwellings to the east, to the limited height of the proposed dwellings (8.7 metres) and the location of the development to the west of the existing dwellings, I am satisfied that the proposed development is unlikely to have any significant impact on the sunlight or daylight currently enjoyed by residents of the existing dwellings (including their associated amenity spaces). I have applied the guidance within the BRE guidelines and associated BS 17037:2018 in my assessment of this issue.
- 7.4.13. In terms of the proposed housing units I consider that the scheme complies with the requirements as set out in section 5.3.1 of the Quality Housing for Sustainable Communities in that the layout of the dwellings is designed to make effective use of natural daylight and sunlight, that dwellings are oriented so that all main rooms get direct sunlight at some time during the day and that windows are adequately sized and room shapes designed to allow good daylight penetration.
- 7.4.14. Open space in three areas is proposed equating to an area of 2809 sq.m. which equates to approx. 13% of the site area which is within the 12-18% requirement as

set out in Cork County Council's document titled 'Recreation and Amenity Policy Interim Approach to Implementation - June 2019'. The main area is to be located along the southern boundary (1325 sq.m.) and is to provide for an informal play area. The area will be overlooked by dwellings within the scheme. As per the landscape masterplan the hedgerow delineating the southern boundary is to be retained save to allow for the proposed access and is to be augmented with further planting. Thus, the scheme will be screened from the 6 no. dwellings on The Willows which front onto the site. The northern most open space is at the end of a cul-de-sac availing of the amenity value provided by the band of mature trees to the north. Dwellings are to be side-on this area with windows and doors in the side elevations providing for a level of passive surveillance. I note that the potential for the extension of a pedestrian route allowing for connection onto Wood Road and further to the Ballincollig Regional Park is provided for in line with the recommendations of the Infrastructure Development Directorate. The 3rd open space area is in the south-eastern corner adjacent to the pedestrian connection to Westcourt Heights.

7.5. Other Issues

- 7.5.1. An Ecological Impact Assessment and Stage 1 AA Screening report accompany the application. As noted previously the site is surrounded by an established residential estate on 3 sides within the northern extent of the larger Classes Lake scheme. It is bounded by a mature wooded area to the north.
- 7.5.2. The site does not contain any habitats or species that are rare or require special protection and are considered relatively common in the local landscape. Bats are known to forage along the boundary woodland. The loss of the grassland/scrub is of low value bat foraging habitat. Save for small section of hedgerows to allow for site access from the west and south the remaining hedgerows and adjacent woodland would be maintained ensuring no loss of connectivity. As part of the landscape plan an area of wildflower meadow will be planted along the northern site boundary which will mitigate the loss of grassland/scrub and will create a buffer between the houses and woodland. A lighting plan has also been prepared to limit light spill onto same. Mitigation measures in line with best practice are set out in section 11.2 of the ecological impact assessment.

- 7.5.3. The ecological assessment did not record any signs of badger during the site surveys. Badger and their setts are protected under the provisions of the Wildlife Act 1976 as amended.
- 7.5.4. Irish Water as the competent authority in charge of the Ballincollig Waste Water Treatment Plant in its submission on the application did not raise any issues in terms of capacity of same to accommodate the development and had no objection subject to conditions.
- 7.5.5. Having regard to the Section 28 Guidelines in respect of 'Commercial Institutional Investment in Housing', I consider that the development, comprising 5 or more own-door units and falling within the definition of structure to be used as a dwelling to which these guidelines applies, should include a condition to restrict the first occupation of these units as outlined by the Guidelines. In respect of this residential scheme there are no material considerations that would justify or support a deviation from the condition as proposed.

7.6. Environmental Impact Assessment

- 7.6.1. The proposed development comprises 60 residential units on a 2.037 hectare site.
- 7.6.2. The development subject of this application falls within the class of development described in 10(b) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory for developments comprising over 500 dwelling units or over 10 hectares in size or 2 hectares if the site is regarded as being within a business district.
- 7.6.3. The number of dwelling units proposed at 60 is well below the threshold of 500 dwelling units noted above. Whilst within the development boundary of Ballincollig it is not in a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.

The proposal for 60 residential units is located within the development boundary of Ballincollig within the existing built up area. The site comprises of a field under grass with hedgerows, trees and boundary walls delineating the boundaries. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other

housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The site is not within a European site. The issues arising from proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive. The application is accompanied by a Transport Impact Assessment, Stage 1 and 2 Road Safety Audit and Ecological Impact Assessment. These address the issues arising in terms of the sensitivities in the area.

7.6.4. Having regard to

- the nature and scale of the proposed development, which is below the threshold in respect of 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- the location of the site on lands within the development boundary of Ballincollig on lands designated as existing built up area under the provisions of the Ballincollig Carrigaline Municipal District LAP 2017 and the results of the strategic environmental assessment of the Ballincollig Carrigaline Municipal District LAP, undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site which is served by public infrastructure, and the existing pattern of residential development in the area.
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report was not necessary.

7.7. Appropriate Assessment

Compliance with Article 6(3) of the Habitats Directive

- 7.7.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

- 7.7.2. The application is accompanied by Stage 1 AA Screening Report prepared by Dixon Brosnan dated December 2020. It was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.
- 7.7.3. The report concluded that the proposed housing development at Classes Lake, Coolroe, Ballincollig, Co. Cork, either alone or in-combination with other plans and/or projects, does not have the potential to significantly affect any European Site, in light of their conservation objections. Therefore, a Stage 2 Appropriate Assessment is deemed not to be required.
- 7.7.4. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment- Test of likely significant effects

- 7.7.5. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.7.6. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

- 7.7.7. The applicant provides a description of the project on page 10 of the Stage 1 AA screening report. In summary, the development comprises:

- 62 dwellings (amended to 60 during further information)
- Access via the existing housing estate to the west and south with connection to the public sewerage and water supply schemes

7.7.8. The site location is described in page 8 of the screening report. It comprises of unmanaged grassland with a small woodland area separating it from the Wood Road. The River Lee is located 170 metres to the north. There are no open drains on the site.

7.7.9. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

Construction Phase:

- Surface water run-off from the site that contains silt, sediments and/or other pollutants impacting water quality in downstream Natura 2000 sites.
- Disturbance / displacement impacts

Operational Phase:

- Surface water run-off from the site that contains silt, sediments and/or other pollutants impacting water quality in the downstream Natura 2000 site.
- Foul effluent discharges impacting water quality in downstream Natura 2000 sites.
- Disturbance / displacement impacts

Submissions and Observations

7.7.10. None received.

European Sites

- 7.7.11. The development site is not located in or immediately adjacent to a European site. Cork Harbour SPA (site code 004030) c.13km to the east. There are no other European Sites with 15km of the site

European Site	Qualifying Interests
Cork Harbour SPA (site code 004030)	Little Grebe, Great Crested Grebe, Cormorant, Grey Heron, Shelduck, Wigeon, Teal, Pintail, Shoveler, Red-breasted Merganser, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Dunlin, Black-tailed Godwit, Bar-tailed Godwit, Curlew, Redshank, Black-headed Gull, Common Gull, Lesser Black-backed Gull, Common Tern, Wetland and Waterbirds

Detailed conservation objectives have been drawn up for the site, the overall aim being to maintain or restore the favourable conservation condition of the identified qualifying interests.

7.7.12. Identification of Likely Effects

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.
- There are no watercourses in the vicinity of the site.
- The measures to be employed at construction stage are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.
- The site is to connect to the existing public sewer and water supply.
- The pollution control measures to be undertaken during the operational phase are standard practices for urban sites and would be required for a

development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.

- The foul discharge from the proposed development would drain, via the public network, to the Ballincollig Waste Water Treatment Plant. Irish Water has reported non-compliance at the WWTP in relation to total nitrogen and ammonia. The ambient monitoring results meet the required EQS. The discharge from the wastewater treatment plant does not have an observable impact on the water quality or Water Framework Directive status of the receiving waters (Irish Water 2018) with no other potential cause of deterioration in water quality relevant to this area. The AA Screening Report notes that the WWTP has a 33,000 PE design capacity and has sufficient capacity to accommodate 310PE arising from the development. On this basis, I am satisfied that the potential for significant impacts on the Natura 2000 site due to impacts arising from foul discharges from the proposed development can be screened out.
- The site does not support habitats of ex-situ ecological value for qualifying interest species of the Cork Harbour SPA with no such qualifying interests recorded in the survey. In addition, the site is not of known historical importance for waterbirds. On the basis of the foregoing and the separation distance, the potential for significant impacts on waterbirds that are qualifying species of the Cork Harbour SPA due to disturbance / displacement can be screened out.

In combination effects are addressed in Section 8.6 of the screening report for AA. It takes into consideration a number of plans and projects in the vicinity including other waste water treatment plant discharges. It concludes that there will not be any in combination effects on the European site discussed.

Mitigation Measures

- 7.7.13. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

7.7.14. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually or in combination with other plans or projects, would not be likely to give rise to significant effects on European Site No. 004030 or any other European site, in view of the site's Conservation Objectives and Appropriate Assessment (and submission of a NIS) is not, therefore, required.

8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to: -

- to the location of the site within the existing built up area of Ballincollig in the Ballincollig Carrigaline Municipal District Local Area Plan, 2017,
- Quality Housing for Sustainable Communities, Best Practice Guidelines, 2007,
- Design Manual for Urban Roads and Streets 2012 (DMURS),
- The configuration of the site and the pattern and character of the existing development in the surrounding area,

it is considered that subject to compliance with the conditions below the proposed development would constitute an appropriate form and scale of development at this location, would not seriously injure the visual amenities and character of the surrounding built environment or the residential amenities of adjoining properties and would be acceptable in terms of vehicular and public safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 23rd day of July 2021 and by the further plans and particulars received by An Bord Pleanála on the 15th day of September 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. This permission shall not be construed as any form of consent or agreement to works outside the site boundary as delineated on the map titled Land Registry Compliant Map submitted to the planning authority on the 23rd day of July, 2021.

Reason: In the interest of clarity.

3. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to and agreed in writing with the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

4. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

5. Drainage arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such works.

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

7. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or slate grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

8.
 - (a) Screen walls shall be provided to screen rear gardens from public view. Such walls shall be two metres in height above ground.
 - (b) All screen walls shall be constructed in concrete block and shall be capped and rendered on both sides in a finish that matches the external finishes of the dwellings.

Reason: In the interest of residential and visual amenity.

9. The areas of open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 23rd day of July 2021. This work shall be completed before any of the dwelling units are made available for occupation. These

open space areas shall be maintained as public open space by the developer until taken in charge by the local authority.

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

10. Public lighting and lighting along the full extent of the proposed pedestrian links and pedestrian routes through open space shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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.

11. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

12. Proposals for an estate name, street names, and house/apartment 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/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

13. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interests of public safety and residential amenity.

14. 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 material compound(s) including area(s) identified for the storage of construction refuse,
- (b) Details of site security fencing and hoardings,
- (c) Details of on-site car parking facilities for site workers during the course of construction,
- (d) Details of timing and routing of construction traffic to and from the site,
- (e) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (f) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (g) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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.

15. 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.

16. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each dwelling unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

17. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

18. 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 96(4) and 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 97(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 for the area.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the 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.

20. 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 the 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.

Pauline Fitzpatrick
Senior Planning Inspector

December, 2021