



An
Bord
Pleanála

Inspector's Report

ABP-315923-23

Development	19no. 2-storey houses comprising 17no. 4-bed and 2no. 3-bed units and all associated site and development works.
Location	Kilgobbin (Td.) Stepside, Dublin 18, on a site (0.738ha) north-west of the existing Stepside Park housing development
Planning Authority	Dún Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	D22A/0945
Applicant(s)	McGarrell Reilly Homes.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant	McGarrell Reilly Homes.
Observers	Three observers, see section 6.4

Date of Site Inspection

7th March 2024.

Inspector

Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site measures 0.738 hectares and is enclosed by the housing estates of Stepside Park to the south and Kilgobbin Heights to the west. The areas to the north and east of the site are open grassland. Levels decrease from west to east and also from south to north. The site is separated from Stepside Park by an area of open space with a mature tree line. The adjacent dwellings at Stepside Park front onto the site and are largely three storey detached homes with off street parking. High density housing development are currently under construction on nearby sites at Clay Farm, which sits to the east/south-east of the site. Access to the site is proposed from Stepside Park which in turn is accessed from Enniskerry Road. The nearest public transport to the site is bus service 44 from Stepside Village which is approximately 850m walking distance from the site and provides services between DCU and Enniskerry.

2.0 Proposed Development

- 2.1. Planning permission is sought for the provision of 19 two storey dwellings comprising 17 no. four bedroom and 2 no. three bedroom homes in the form of 11 no. terraced, 4 no. semi-detached, and 4 no. detached properties. Vehicular access would be provided from Stepside Park.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Planning Permission was issued by Dún Laoghaire Rathdown County Council on 1 February 2023 for the following reasons:

1. The Clay Farm Loop Road, which is required for the development of these lands, is not currently in place. The proposed development would contravene the phasing programme established within Section 12.1 of the Ballyogan and Environs Local Area Plan, which requires that 'To progress the development of these lands the Loop Road will either be in place, with the necessary legal agreements in place for the developer to access the

route, or the Applicant shall provide evidence that the Loop Road will be available to serve the development as homes are completed.' As such, the proposed development would be contrary to the Local Area Plan and would be premature by reference to the existing deficiencies in the road network serving the area of the proposed development and the period within which constraints involved may reasonably be expected to cease.

2. The proposed development is not accessed via the Clay Farm Loop Road as required in the Ballyogan and Environs Local Area Plan ('Link No. 16'), and by the Site Development Framework for Kilgobbin, which requires that 'Vehicular access for all new residential development within the SDF will be provided via the Loop Road and/or its feeder routes.' This would be contrary to the relevant transport, access, movement and phasing policies of the Ballyogan and Environs Local Area Plan 2019 - 2025, including Policy MOV12 'New Linkages', Table 4.6 and Figure 4.11 and 'Figure 12.8: Site Development Framework - Kilgobbin'. Furthermore, the layout does not provide for onward connections to lands to the northwest, as required by the Guiding Principles of the SDF which requires that 'The internal road layout of the area shall prioritise permeability throughout.'
3. The proposed development relies on the existing access through Stepside Park Phase One and Two onto Enniskerry road. Previous planning permissions (register reference numbers/appeal reference numbers D98A/1000 (PL 06D.111521), D00A/1279 (PL06D.124391) and D03A/1213 (PL 06D.207092)) in this area have sought to limit the number of dwellings being accessed through Stepside Park and by extension Enniskerry Road. The number of permitted dwellings is now approximately 400 with provision that access to some of these will be redirected to the future Clay Farm Loop Road. The proposed development would, therefore, be contrary to the conditions set out in previous permissions, and to the principles of these decisions. The proposed development would be contrary to the proper planning and sustainable development of the area.
4. The proposed access for the development through part of the public open space area of the existing Stepside Park residential development, as permitted under D13A/0190 (as amended), would be unduly injurious to the

role of this area as open space by reason of the introduction of hard surfacing and vehicular access arrangements. The proposed development would significantly interrupt the existing linear area of public open space thereby negatively affecting its coherence and usability and which would be injurious to the use of the lands for recreation and associated activities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5. The proposed development, at approximately 36 units per hectare represents an inappropriately low density for this location. The Local Area Plan sets out a target density of 60 units per hectare in this neighbourhood, with the Kilgobbin Site Development Framework envisaging to be 55-80uph for the eastern portion and 45-55uph for the western portion. As such, the proposed development represents underdevelopment and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The Planner's Report is on file for the Board's information. The report contains the following points of note:

- Note the low density nature of immediate context but Ballyogan Road is rapidly evolving, and the emerging profile is medium and high density. Proposed density of 36uph would not meet the target densities of the Kilgobbin SDF. This is an underutilisation of serviced, zoned lands.
- Housing meets all quality standards and public open space would accord with the CDP.
- Having regard to the emerging pattern of development in the wider area, insufficient rationale has been provided for the proposed housing mix and this should be addressed in any future application.
- The development would have an inappropriate impact on the existing open space for Stepside Park due to the proposed access which would result in the loss of some existing open space, this would interrupt the linear area of open

space and would compromise its coherence and usability, particularly for children.

- The red line does not include the recent area of development at Stepside Park associated with this public open space and even if the Planning Authority were positively disposed towards this approach, it is not clear that the applicant would have the legal authority to alter the existing permission(s) for the Stepside Park development, the houses of which appear to be occupied and ownership likely transferred from the developer.
- The development raises no residential amenity issues in terms of overlooking, daylight/sunlight, noise. Design, visual impact, and built form are generally considered acceptable but the scheme is considered to perform poorly in how it addresses the existing areas of open space to the south east which is faced by gables and fails to provide connections to the north west.
- The Ecological Impact Assessment noted no invasive species, no rare or protected species and no mammals, badger setts, or birds of conservation importance were noted. The development is not considered to have any significant effect on local bat populations.
- Development would be contrary to the phasing plan set out in the BELAP and Kilgobbin SDF as the Clay Farm loop Road would not be available to serve the development. This would also be contrary to BELAP MOV12 which requires site access from the Clay Farm Loop Road.
- The number of dwellings accessed through Stepside Park is considered to be excessive and Stepside Park is unsuitable to carry the increased road traffic.
- The proposal to access the site from Stepside Park would be contrary to conditions on previous permissions and permission has previously been refused by the Board on the basis of being premature pending completion of the Loop Road.
- There would be increased loading at the access from Enniskerry Road where a planned junction upgrade is required as part of the taking in charge of the existing estate.

- Cycle parking is acceptable and electric vehicle parking should be secured by condition.

3.2.2. **Other Technical Reports**

3.2.3. **Drainage Planning (16.01.2023):** No objection subject to conditions regarding raingardens/water storage, SUDS, and infiltration/interception.

3.2.4. **Environmental Health (17.01.2023):** Request Further Information regarding baseline noise surveys; information on impacts of demolition and construction; noisy works; community liaison; dust, noise, and vibration monitoring; and hours of work/deliveries.

3.2.5. **Housing (03.01.2023):** No objection, subject to a Part V condition.

3.2.6. **Parks Department (17.01.2023):** No objection, subject to compliance with the Arboricultural Method Statement and conditions regarding trees including tree works, tree protection, post construction assessment, vegetation clearance, tree bond, and inspection/monitoring.

3.2.7. **Public Lighting (20.12.2023):** No objection.

3.2.8. **Transportation Planning (17.01.2023):** Recommend refusal on the basis that the development would rely on access through Stepside Park. Guidance allows up to 300 units on a single access road, previous permissions have sought to limit numbers and Stepside Park was not intended to function as an access to such a large number of dwellings. The BELAP and Kilgobbin SDF envisaged the balance of these lands to be accessed via a loop distributor road, the number of dwellings is now approximately 400 and until the loop road is in place further units would be unsuitable. Stepside Park is unsuitable to carry the increased traffic from the development and until the loop road is completed the development does not comply with the phasing requirements of the BELAP.

3.3. **Prescribed Bodies**

3.3.1. **Uisce Éireann (16.01.2023):** No objection. A connection agreement will be required, service will be subject to the constraints of the Capital Investment Programme and development must be carried out in compliance with standards, codes and practices.

3.4. Third Party Observations

3.4.1. A total of 18 observations were received in response to the planning application. Many of the points raised are similar to those made in observations on the appeal which are set out at section 6.4 below. Issues raised in addition to those on the appeal include:

- Previous refusals of permission on access/traffic are relevant, particularly given the additional 46 houses since permitted.
- Applicant has undertaken to complete the Clay Farm Loop Road as part of their SHD application.
- Multi-lane Ballvogan Road suitable for construction traffic.
- Video on youtube of current access arrangements.
- Cul de sac'ing Stepside Park in the middle will divide the community.
- Cul de sac location proposed as part of SHD application is reasonable.
- Entrance to Stepside park over used and contrary to previous permissions.
- The development would not comply with the 10 minute neighbourhood concept.
- Speed ramps are required throughout the Stepside Park Estate.
- Objection to 19 two storey houses behind back wall of dwelling at Kilgobbin Heights.
- Impacts regarding construction noise, dirt, and dust.
- Previous permissions did not comply with construction conditions.
- Construction traffic would be a danger to children and users of the playground, construction should be built via Clay Farm Loop Road.
- There would be impacts on species such as badgers and deer.
- Piecemeal development strategy.
- The subject site was not recently acquired by the developer and has been included in the parcel of land owner by them since Stepside Park commenced.
- New homes are being advertised even though they don't have permission.

4.0 Planning History

- 4.1.1. Whilst there is no planning history available for the specific subject lands, there is an extensive planning history available for Stepside Park and adjacent lands that are of specific relevance to the appeal as set out below.
- 4.1.2. **ABP Ref.102058 / Planning Authority Ref. D96A/0197:** In October 1997, the Board granted permission for 148 houses on the overall Stepside Park lands on foot of the 1993 County Development Plan, which zoned the site for residential development with a cap of 150 houses.
- 4.1.3. **ABP Ref. 111521 / Planning Authority Ref. D98A/1000:** Relating to lands to the east of the above site and revised plans to construct 107 homes on the southern part of the site and 86 no. houses and 179 no. apartments on the remainder of the site giving a total development of 372 units. This application was made as a result of the 150 home cap being lifted in the 1998 CDP. The Board granted permission in September 1999 subject to 21 conditions. Conditions of note include:
- Condition 2: Omitted 49 units from the north eastern corner of the site pending the adoption of the Stepside Action Area Plan (AAP) and route of the Ballyogan Loop Road provided for under the AAP.
 - Condition 3: Omitted 16 apartments and a house. The total number of homes permitted was 306 units over the entire Stepside Park estate.
 - Condition 9: Requirement for northern part of the development to be accessed from the Ballyogan Loop Road (Clay Farm Loop Road) when complete. This would result in approximately 140 units on the southern side of Stepside Park being accessed from Enniskerry Road/R117.
- 4.1.4. **ABP Ref. 124391 / Planning Authority Ref. D00A/1279:** Permission was granted by the Board in November 2001 for amendments to D96A/0197 and D98A/1000, to alter the northern portion of the site to provide 59 houses and 71 apartments, all accessed from Enniskerry Road. The proposal involved an increase in the total number of units in Stepside Park to c. 388 units. Condition No. 2 restricted the development to 33 no. units prior to the completion of the Ballyogan Loop Road (Clay Farm Loop Road). The remaining houses and apartments were to be constructed on completion of the Loop Road.

- 4.1.5. **ABP Ref. 207092 / Planning Authority Ref. D03A/1213:** Permission was granted by the Board in September 2004 for amendments to the development permitted under PL06D.124391, involving a net increase of 46 no. residential units. Condition 2 imposed a limit of 26 houses prior to the completion of the Ballyogan Loop Road (Clay Farm loop Road).
- 4.1.6. **ABP Ref 236375/Planning Authority Ref D09A/0934:** Permission was refused by the Board in December 2010 for the provision of 206 no. dwellings, creche, commercial unit, and all associated site works. The Board refused permission on the basis of inappropriate access that would contravene conditions attached to previous permissions relating to lands at Stepside Park (D98A/1000 (PL 06D.111521), D00A/1279 (PL 06D.124391) and D03A/1213 (PL 06D.207092)), which sought to limit the quantum of development accessed directly from Enniskerry Road pending completion of the Ballyogan Loop Road (Clay Farm Loop Road). Permission was also refused due to inadequate open space, residential amenity impacts, and contravention of open space zoning as a result of an emergency access route.
- 4.1.7. **ABP Ref 242585/Planning Authority Ref D13A/0190:** Permission was granted by the Board in March 2014 for forty six houses with on curtilage car parking, open space including play areas, surface water attenuation and all requisite engineering works, access, pedestrian link to Enniskerry Road. This relates to the north west section of Stepside Park that immediately adjoins the appeal site.
- 4.1.8. **ABP Ref 314131 (SHD):** Permission was refused by the Board in October 2023 for the development of 118 residential units (21 no. houses and 97 no. apartments) with a creche and associated site works. Permission was refused on the basis that the unit mix was not policy compliant, and that the development would fail to provide all road users with a link between Stepside Park and the Clay Farm Loop Road. On that basis the development was considered to be contrary to conditions attached to extant planning permissions regarding the long term access arrangements for Stepside Park and that it would be contrary to the requirements of the Ballyogan and Environs Local Area Plan and the Kilgobbin Site Development Framework.

5.0 Policy Context

5.1. Development Plan

Dún Laoghaire-Rathdown County Development Plan 2022-2028

- 5.1.1. The site has two zoning designations. The majority of the site is zoned objective A which seeks to provide residential development and improve residential amenity while protecting the existing residential amenities. The access to the site crosses land zoned objective F which seeks to preserve and provide for open space with ancillary active recreational amenities. There is also an objective to protect trees and woodland.
- 5.1.2. The site is within the boundary of the Ballyogan and Environs Local Area Plan and within the catchment of the Section 49 Luas Line B1 development contributions scheme.
- 5.1.3. Chapter 2 of the DCP is the Core Strategy which sets out the settlement and growth strategy for the County, taking into account housing need, residential capacity, population growth, Compact Growth, and regeneration.
- 5.1.4. Chapter 3: Climate Action, sets out the detailed policy objectives in relation to climate and the role of planning in climate change mitigation, climate change adaptation and the transition towards a more climate resilient County.
- 5.1.5. Chapter 4: Neighbourhood – People, Homes and Place, sets out the policy objectives for residential development, community development and placemaking, to deliver sustainable and liveable communities and neighbourhoods. The relevant policy objectives from this chapter include:
- PHP18: Residential Density – Seeks to increase housing supply and promote compact urban growth through the consolidation and re-intensification of infill/brownfield sites, having regard to proximity and accessibility considerations, and development management criteria set out in Chapter 12.
 - PHP20: Protection of Existing Residential Amenity - to ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments.
- 5.1.6. Chapter 5: Transport and Mobility, seeks the creation of a compact and connected County, promoting compact growth and ensuring that people can easily access their

homes, employment, education and the services they require by means of sustainable transport. The relevant policy objectives from this chapter include:

- T23: Roads and Streets
- T35: Section 48 and 49 Levies

5.1.7. Chapter 8: Green Infrastructure and Biodiversity includes policies for the protection, creation, and management of this resource in an integrated manner by focusing on key themes within GI such as: landscape and the coast; access; biodiversity; and parks.

5.1.8. Chapter 9: Open Space, Parks and Recreation recognises that having safe and easy access to a network of open space and parks, means that the recreational needs of residents are met, while enhancing their health and well-being. The relevant policies from this chapter include:

- OSR4: Public Open Space Standards

5.1.9. Chapter 10: Environmental Infrastructure and Flood Risk recognises the critical importance of high quality infrastructure networks and environmental services in creating sustainable, healthy, and attractive places to live and work.

5.1.10. Chapter 12: Development Management, contains the detailed development management objectives and standards that are to be applied to proposed developments. Relevant sections of this chapter include:

- 12.3.1: Quality Design
- 12.3.3.1: Residential Size and Mix
- 12.3.3.2: Residential Density
- 12.3.4.2: Habitable Rooms
- 12.3.4.5: Management Companies and Taking in Charge
- 12.4.8: Vehicular Entrances and Hardstanding Areas
- 12.8.3: Open Space Quantity for Residential Development
- 12.8.3.1: Public Open Space
- 12.8.7.1: Separation Distances
- 12.8.7.2: Boundaries
- 12.8.11: Existing Trees and Hedgerows

Ballyogan and Environs Local Area Plan (BELAP) 2019-2025

- 5.1.11. The Ballyogan & Environs Local Area Plan (BELAP) 2019-2025 was adopted on 1st July 2019. The primary land use within the BELAP area is residential, and the two undeveloped greenfield land holdings are all zoned to accommodate residential development.
- 5.1.12. The BELAP identifies five distinct quarters and 16 neighbourhoods within the boundary of the LAP. The appeal site falls within the Kilgobbin Quarter and Neighbourhood no. 11 – Kilgobbin South ‘Kilgobbin Quarter.
- 5.1.13. Policy BELAP RES2 – Density by Neighbourhood: Any residential scheme within each of the Neighbourhoods shall as a general rule have a target net density as set out in Table 5.4, subject to the provisions of any Site Development Frameworks, where applicable.
- 5.1.14. Policy BELAP MOV12 – New Linkages: To provide or facilitate the delivery of the new linkages shown in Table 4.6 and Figure 4.11 – Movement Strategy. Link no. 16 is the Clay Farm Loop Road. This road, which is provided for in Specific Local Objective 135 of the CDP, would loop off Ballyogan Road, providing access to the undeveloped zoned lands of Kilgobbin South, which includes the appeal site. This is being delivered by the CDP as well as through development management.
- 5.1.15. A Site Development Framework is in place for Kilgobbin. The SDF sets recommended density ranges for the appeal site of 45-55 in the south west corner and 55-80 on the remainder of the site.
- 5.1.16. Section 12.1 states that the Kilgobbin lands will be served by the Clay Farm Loop Road. To progress the development of these lands the Loop Road will either be in place, with the necessary legal agreements in place for the developer to access the route, or the Applicant shall provide evidence that the Loop Road will be available to serve the development as homes are completed.

5.2. Regional Policy

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

- 5.2.1. This strategy provides a framework for development at regional level. The RSES promotes the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint.

5.3. **National Policy**

The National Planning Framework - Project Ireland 2040

- 5.3.1. The government published the National Planning Framework (NPF) in February 2018. Objective 3a is to deliver 40% of all new homes nationally, within the built-up footprint of existing settlements. Objective 11 is to prioritise development that can encourage more people to live or work in existing settlements. Objective 35 is to increase residential density in settlements and makes specific reference to infill development.

5.4. **Section 28 Ministerial Guidelines**

- Part V of the Planning and Development Act 2000 (including Circular PL 10/2015 and Housing Circular 36/2015) (January 2017).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (May 2021).
- Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024). The guidelines support the application of densities that respond to settlement size and to different place contexts within each settlement, recognising in particular the differences between cities, large and medium-sized towns and smaller towns and villages. They will also allow greater flexibility in residential design standards and cover issues such as open space, car and cycle parking, and separation distances.

5.5. **Natural Heritage Designations**

- 5.5.1. None relevant.

5.6. **EIA Screening**

- 5.6.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant

effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A First Party appeal has been submitted by McCutcheon Halley Planning Consultants, for and on behalf of the appellant, McGarrell Reilly Homes Limited. The grounds of appeal can be summarised as follows:

Reasons for Refusal 1 and 2

- The Clay Farm Loop Road (CFL Road) is not in place and is not envisaged to be in place in the short to medium term. On that basis the appellant sought to bring forward residential development at a time of critical need otherwise it would be held up due to delayed road delivery which is outside of their control.
- Information has been provided through the planning application confirming the capacity of the existing access onto Enniskerry Road and adequacy of internal roads to support the minimal traffic levels associated with the development.
- The Clay Farm Loop Road has been a 6 year road objective in successive development plans, dating back as far as 2004-2010 as well as being an objective of the Stepside Action Plan 2000.
- The delivery of this road is contingent on the development management process and its delivery has been facilitated by the granting of planning permission, which has been incremental to date.
- The provision of the section of the CFL Road to the north east is not forthcoming. While the applicant is committed to realising further delivery of the CFL Road on lands within their control, the balance of the land required to complete the CFL Road is in third party ownership and not under the appellant's control.
- On that basis it is not envisaged that this section can be delivered by the Council in the short to medium term and this was echoed in the Chief Executives Report for the Stepside SHD Development (ABP-314131-22) proposed by the appellant.

- LIHAF funding has been secured by the Council for the undeveloped section of the road however conditions attached to the funding require the land to be in the ownership of the Council and not third parties.
- Appellant has responded positively to the invitation from the Director of Infrastructure and Climate Change at DLRCC to participate in a new round of discussions with all associated landowners towards an agreement on completion of the Clay Farm Loop Road.
- The appellant is not rejecting the principle of access from Clay Farm Loop Road but the location and limited scale of the development lend itself to a connection from the south via the existing Stepside Park.
- Refute that the development would be premature due to deficiencies in the road network and the issue/timelines involved.
- Evident from the proposed layout that no further extension of Stepside Park is envisaged and no development on adjoining lands would be accessed through the proposed development, although pedestrian and cycle connections could be provided through a minor revision to the site layout plan (amended plan provided for the Board to consider- Fig 9 of appeal statement).
- Permeability is a key concept for the appellant, in line with the transport and movement objectives of the BELAP to develop a network of walking and cycling routes as an alternative to the private car.

Reason for Refusal 3

- The Transportation Planning Report did not dispute the technical findings and assessment contained in the appellant's Transportation Statement which concludes that the impact on the surrounding road network would be negligible.
- The development would generate 11 peak am/pm traffic movements, and this can be easily absorbed on the local road network.
- Planning history (ABP PL06D.242585) establishes the principle of additional residential being accessed from Enniskerry Road without amenity or road/public safety impacts.
- This permission demonstrates that that additional units using the Stepside Park/Enniskerry Road access can be permitted, despite conditions attached to previous permissions within the Stepside Park area and that further units can

be accommodated on the access road, pending the provision of the Clay Farm Loop Road.

- Only 333 units are accessed through Stepside Park/Enniskerry Road, not 400 as referenced by the Planning Authority. This falls below the capacity of the internal road network/Enniskerry Road junction and is only modestly above the guidance referred to in the Transportation Planning report.
- Should the board grant permission, this would be 352 homes accessed from Enniskerry Road/Stepaside park and well below the 400 existing units cited in the Planning Authority reports.

Reason for Refusal 4

- Section 12.4.8.6 of the CDP allows for access across public open space and cases can be assessed on their merits. This is also recognised in the Planner's Report which states there are circumstances where it would be appropriate, subject to wider considerations.
- No housing is proposed on the open space zoned lands, works are restricted to the proposed accesses and service connections and would have no impact on the tree belt.
- The location of the entrance is consistent with the walkway/cycleway connections shown in Fig 12 of the BELAP.
- The open space is a passive amenity space rather than being developed for active recreational activities. The extent of hard surfacing would not prevent the continued use of the land for passive uses.
- The development would increase the area of passive open space by extending the park into the south west corner of the site.
- A previous application referenced by DLR in their Section 247 pre-planning record is not comparable to the proposed development where the nature and extent of works proposed on the open space is markedly different.
- The development would not be injurious to the role of this area as open space and it should be noted that there was a significant over-provision of open space on earlier Stepside Park permissions, up to three times more than required.
- The extent of hardstanding required for the access is 120sqm representing a negligible loss to the open space.

- The access does not prevent the use of this space as intended and cuts through a natural break in the tree line to avoid any impacts on the existing tree belt.
- The space has been carefully considered, being designed into the scheme as a public open space.

Reason for Refusal 5

- The site area measures 0.738 hectares of which the net area is 0.523 hectares and the net density is 36.3uph and the Planning Authority agreed with the methodology for calculation.
- The BELAP has target densities for each neighbourhood. The site is in Kilgobbin South and the target density is 60uph, on the basis that the site is further from the Luas and has a more challenging topography.
- The Kilgobbin SDF notes that deviations from density ranges may be considered. Ranges are targets and the boundaries are indicative and not meant to be absolute.
- The site has two target density ranges, the south west part of the site is 45-55uph (Res A land) and the north east part of the site is 55-85uph (Res B land).
- It is reasonable for target density to be calculated across the overall Kilgobbin SDF with higher densities more appropriately achieved on other parts of the SDF site closer to services and transport corridors.
- Net density proposed is 45.9uph on Res A land and 30.6uph on Res B lands. The overall net density would be 36.3uph.
- This is considered an appropriate buffer between existing residential to the south and west and the higher density developments under construction/proposed to the north and north-east.
- Higher density is more appropriate further from the established residential communities, closer to the transport corridors and services.
- Circular NRUP 02/2021 directs planning authorities to apply a proportionate and tailored approach to residential development and to respond to character, scale and setting.
- The scheme ensures a balance between the protection of existing amenities and the established character of the surrounding area with the need to provide high quality, sustainable residential development.

- The development strategy and scheme design has been informed by its context, including access considerations and other factors relevant to the site.
- In the absence of the Clay Farm Loop Road, higher densities would result in increased volume of vehicles accessing the site from Enniskerry Road/Stepaside Park, a concern of the Planning Authority in reason for refusal 3.
- The delivery of the Loop Road/spur is a medium-long term prospect reliant on third parties, the appellant seeks to bring forward housing on a zoned and serviced site in a way that is appropriate and responsive to its setting. And respects the capacity of the local road network, planning policy context, and residential character.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority do not consider that the grounds of appeal raise any new matter which would justify a change in attitude to the proposal and the Board are directed to the Planner's Report.

6.3. Observations

- 6.3.1. Three observations have been received from the following:

- Stepside Park Management Company.
- Michelle Massey of 112 Stepside Park.
- Peter Osvald and Marie Osvald Caffrey of 55 Stepside Park.

- 6.3.2. The observations can be summarised as follows:

- The appellant has not completed the Taking in Charge process for Stepside Park, common areas have not been handed over and permission should be refused until they complete this process.
- Stepside Park is unsuited to large volumes of construction traffic and large vehicles. It is narrow, winding, steep and has many blind spots. This would lead to health and safety issues. The Clay Farm loop Road is more suitable, and this should be completed.
- There was no notice of this application in Kilgobbin Heights.

- There is a risk that Stepside Park will be subjected to ongoing extensions/development.
- The developer has significant influence in providing the Clay Farm Loop Road and have committed to building a part of this under their SHD development on an adjacent site.
- No robust data on the adequacy of internal roads through Stepside Park.
- Construction traffic would impact on Stepside Village (increased traffic, fumes, decreased safety), Kilgobbin Road and Glenamuck Road (unsuitable for large construction vehicles, increased traffic).
- Stepside Park is already over used as Condition 9 of a previous permission has not been complied with and the Clay Farm Loop Road has not been completed.
- Accessing other sites via Stepside Park was only meant to be a temporary solution.
- The appellant wants to build the homes prior to the loop road being completed for marketing reasons.
- There are issues with service charges across the various phases.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues to be considered in this appeal are as follows:

- Access
- Open Space
- Density
- Other Matters

7.2. Access

- 7.2.1. The first three reasons for refusal stem from the proposal to develop the site for housing in the absence of the Clay Farm Loop Road, therefore necessitating access through the existing Stepside Park Estate. The main elements of the Planning Authority's objection to accessing the site through Stepside Park are that it would be contrary to the BELAP and the Kilgobbin SDF, that the layout would not provide onward connections to adjacent lands to the north west, and that by proposing access via Stepside Park, the development would be contrary to previous permissions which sought to limit the number of dwellings accessed through the estate.
- 7.2.2. The provision of an access from Stepside Park is the main objection to the development from observers, who consider that the development would be premature pending the provision of the Loop Road, from which any new development should be accessed, and reference is made to the planning history of Stepside Park and the Board's intention to limit the number of homes accessed from the existing estate.
- 7.2.3. The appellant considers that the proposed development would be a natural and minor extension of the Stepside Park estate and that it is evident from the proposed layout that no further extension of Stepside Park is envisaged. The appellant acknowledges that the Clay Farm Loop Road is not in place and is not envisaged to be in place in the short to medium term but seeks to bring forward residential development that would otherwise be held up due to delayed road delivery which is outside of their control. Furthermore, the appellant considers that the existing access to Enniskerry Road has sufficient capacity and would be adequate to support the traffic levels associated with the proposed development.
- 7.2.4. There is a long history of decisions on the Stepside Park Estate. On the earliest permissions, the appeal site is not shown as part of Stepside Park, however it is shown on later applications and permissions, either as land within the appellant's control (with future development potential) or as a constituent part of the development proposals. The importance of the provision of the Loop Road was recognised on earlier permissions, evidenced by conditions imposed by the Board that either omitted dwellings pending the completion of the Loop Road or that required parts of the estate to be accessed from the Loop Road when completed. There has clearly been a

recognition of the need to limit the number of homes accessed from Stepside Park/Enniskerry Road.

- 7.2.5. Application ABP Ref 236375 (D09A/0934) incorporated the appeal site and shows a form of development largely consistent with that proposed as part of the current appeal, albeit with a reduced number of dwellings. This permission was refused by the Board for reasons including that the access would be inappropriate and would contravene conditions attached to previous permissions which sought to limit the quantum of development accessed directly from Enniskerry Road, pending completion of the Ballyogan Loop Road (Clay Farm Loop Road).
- 7.2.6. A subsequent permission granted by the Board under reference ABP Ref 242585 showed the appeal site as part of future development plans adjacent to the lands where permission was being sought for redevelopment but did not form part of this permission. The Board Order on this permission specifically made reference to the planning history, and that the permitted development was located on lands where the principle had previously been established of permitting a limited amount of residential development accessed from the Enniskerry Road.
- 7.2.7. Subsequent to these decisions, the Ballyogan and Environs Local Area Plan 2019-2025 was adopted. The BELAP identifies five distinct quarters and 16 neighbourhoods within the boundary of the LAP. The appeal site falls within the Kilgobbin Quarter and is designated as part of Neighbourhood no. 11 – Kilgobbin South. The phasing strategy for the Kilgobbin SDF (section 12.1), states that these lands will be served by the Clay Farm Loop Road and that in order to progress development, the Loop Road will need to either be in place or be available in time to serve development as homes are completed.
- 7.2.8. Since adoption of the BELAP, a further decision has been issued by the Board under reference ABP-31431 which was an SHD application for 118 new homes on an immediately adjacent site. One of the reasons that permission was refused was that the development would fail to provide all road users with a link between Stepside Park and the Clay Farm Loop Road and that for this reason, the development would be contrary to conditions attached to extant planning permissions regarding the long term access arrangements for Stepside Park, as well as being contrary to the

requirements of the Ballyogan and Environs Local Area Plan and the Kilgobbin Site Development Framework.

- 7.2.9. I acknowledge the difficulties and delay in completing the Loop Road which remains unfinished, and I accept that these are generally outside of the appellant's control. I also recognise that the proposal is for a limited number of homes in the context of the existing Stepside Park estate, and that the Transport Assessment submitted by the appellant demonstrates that the junction at Enniskerry Road has capacity to absorb the proposed development, with limited trip generation associated with the proposal.
- 7.2.10. Had application reference ABP-314131 been approved with an all road users link from Stepside Park to the Clay Farm Loop Road I would perhaps have been more inclined to accept the principle of an additional 19 homes on the Stepside Park Estate, as the road link would have reduced the number of homes relying solely on access from Enniskerry Road. As it stands however, the provision of another 19 homes would result in a total of 352 homes being accessed from a single junction, which is significantly above the guide figure of 300 homes specified by the Planning Authority, as recognised by the appellant, and would be excessive in my view, significantly exceeding the original number of homes envisaged to be accessed from Stepside Park.
- 7.2.11. I acknowledge that the appellant considers the development to be a minor extension to the Stepside Park Estate and that a previous Board permission (ABP-242585) was granted on the basis that the development was located on lands that historically formed an integral element of the Stepside Park development, where the principle of limited additional residential accommodation accessed from Enniskerry Road/Stepside Park had been accepted. However, in my opinion this principle does not extend to the appeal site, which was not part of the lands referred to in the Board decision or on earlier permissions.
- 7.2.12. In any event, the policy setting has since moved on with the adoption of the BELAP and I am of the view that rather than being an extension to the existing estate, the proposal would instead represent inappropriate incremental development of the Kilgobbin South lands which are covered by the Kilgobbin SDF. It is therefore my opinion that the proposal would be premature pending the completion of the Clay Farm Loop Road, would be contrary to the provisions of the BELAP and Kilgobbin SDF.

7.2.13. Regarding issues of onward connections raised by the Planning Authority, I acknowledge the proposed amendment submitted as part of the appeal that would provide for a potential pedestrian/cycle link to connect to the remainder of the Kilgobbin South lands, but this would not overcome my primary concern which relates to the impact and principle of developing these lands via a vehicular access from Stepside Park.

7.3. Impacts on Public Open Space

7.3.1. The Planning Authority's fourth reason for refusal centres on the impact of providing a vehicular access to the proposed development through an area of established public open space. The Planning Authority conclude that the provision of an access through the space would be injurious to the role of the land and an interruption that would negatively affect its coherence and usability, being injurious to its role for recreation purposes.

7.3.2. The appellant contends that the Planning Authority recognise that Section 12.4.8.6 of the CDP allows for access across public open space and cases can be assessed on their merits, where it would be appropriate, subject to wider considerations.

7.3.3. The development would rely on provision of a vehicular access across a linear area of open space that is zoned Objective F in the CDP with the stated objective to preserve and provide for open space with ancillary active recreational amenities. This space is also designated as an Ecological Corridor in the Kilgobbin SDF. The provision of vehicular access is neither permitted in principle or open to consideration although the Planning Authority note that access can be provided across open spaces in limited circumstances subject to Section 12.4.8.6 of the CDP. This provision requires applicants to clearly indicate the necessary right of way or entitlement to carry out the proposed works and the Planner's Report raises concerns that it isn't clear that the appellant has the legal authority to alter the existing permission for the Stepside Park development.

7.3.4. The site plan submitted by the appellant shows the site and proposed accesses over the open space outlined in red. The remainder of the open space, as well as the carriageway of Stepside Park and all other open spaces/communal spaces within the estate are outlined in blue. This would certainly align with claims by observers that the

site has not yet been taken in charge and I am satisfied that the appellant has sufficient legal interest to make the application.

- 7.3.5. It is stated by the appellant that the extent of open space lost would be negligible and that there was a significant overprovision of open space on earlier Stepside Park permissions. It is also argued that the area is a passive amenity space rather than a recreational space, that the tree belt would be retained, that the development would not prevent its use for passive purposes and would increase the area of passive open space by extending the park into the south west corner of the site.
- 7.3.6. I note the appellant's claim that there was an overprovision of open space on the earlier Stepside Park permissions, however, Stepside Park is now a well-established residential neighbourhood that has had beneficial use of this open space for a considerable time. Furthermore, many of the other open spaces in Stepside Park are steeply sloped which hinder their use in amenity terms. The open space in question is largely flat with only a gentle slope to the north east. It is clearly a well-used space, particularly by children.
- 7.3.7. During my site inspection I noted various pieces of play equipment, such as football goals, and the open space was actively being used for play, particularly the area where the new access is proposed as the break in the tree line allows more opportunity for play and recreation. Whilst I accept that the space has not been laid out as a formal amenity space or playground, I disagree with the appellant's contention that it is only a passive space rather than a recreational space. In my opinion the proposed vehicular access would unnecessarily interrupt this open space and I agree with the Planning Authority that the access would compromise the usability of the open space, particularly for children. I note the appellant's view that the access would be consistent with the walkway/cycleway proposed in the BELAP, however I do not accept that they are comparable as a cycle path/walkway would have a very different and limited impact in comparison to a vehicular access and would itself be of recreational value.
- 7.3.8. I am therefore of the opinion that the proposed vehicular access across the open space would be contrary to the zoning objective, would have a significant negative impact on the usability of the space, reducing its recreational value and reducing residential amenity, as well as being contrary to the Kilgobbin SDF which identifies it as an Ecological Corridor.

7.4. Density

- 7.4.1. The BELAP assigns target densities to each neighbourhood and the Kilgobbin South neighbourhood has a target density of 60uph. The BELAP further splits the site into two areas, Res A (western portion) and Res B (eastern portion), with target densities of 45-55 and 55-80 respectively. The Planning Authority consider that the proposed density of 36uph would be inappropriately low in relation to the target densities in the BELAP, thereby representing underdevelopment.
- 7.4.2. The appellant considers that deviations from these targets are possible and takes the view that it is reasonable for target density to be calculated across the overall Kilgobbin SDF, with higher densities more appropriately achieved on other parts of the SDF site closer to services and transport corridors. The appellant argues that the scheme seeks a balance between protection of amenity and providing new homes, and notes that in the absence of the Clay Farm Loop Road, higher densities would result in increased volume of vehicles accessing the site from Enniskerry Road/Stepaside Park, which was a concern of the Planning Authority.
- 7.4.3. It is evident that the capacity of the site and potential for wholesale changes to the layout are somewhat limited by the required access arrangements through Stepside Park, which I consider to be symptomatic of bringing forward this site in the absence of the Clay Farm Loop Road. The appellant accepts that providing further homes would increase the number of vehicles accessing the site from Stepside Park. However, rather than this being a justification for lower densities, I consider it to be an indicator that the development of this site is premature due to the access arrangements.
- 7.4.4. Despite the clear impediments to providing a significantly altered layout I note that the majority of proposed dwellings are significantly oversized when compared against the minimum standards. Whilst I am not advocating that new homes be limited to minimum floorspace standards, the level of additional floorspace across the site does indicate that a more efficient, higher density development could be achieved on site whilst still providing a high standard of accommodation and a built form that contextualises with its surroundings. Opportunities therefore exist to provide some smaller units which could also address the concerns regarding unit mix referred to in the Planner's Report.

- 7.4.5. I note the appellant's view that providing more homes would increase traffic to Stepside Park which is a concern of the Planning Authority and that this could be somewhat contradictory. However, in my opinion they are separate points and the principle of accessing the development through Stepside Park is not a singular issue related solely to traffic generation.
- 7.4.6. I accept that the appellant considers the density to be appropriate in the context of Stepside Park but in my opinion, consideration has to be given to the site's location within Kilgobbin South. In this regard, the appellant is of the view that density should be calculated across the whole of the SDF. In my opinion, provision of a lower density on this part of the Kilgobbin South neighbourhood, at almost half the recommended target, would place increased pressure to provide higher densities on the balance of the lands.
- 7.4.7. Overall, I see no justification for the provision of such a low density development on these zoned lands and the proposed density would be materially below the standards set out in the BELAP, representing an inefficient and underutilisation of zoned residential land.

7.5. Other Matters

- 7.5.1. Observations on the appeal raise concerns that no site notice was placed in Kilgobbin Heights. A site notice was placed at the proposed site access from Stepside Park and I note that this matter was considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.
- 7.5.2. Matters raised in the observations regarding the fact that the development has not been taken in charge and issues regarding service charges are not matters for the Board. Other issues raised regarding impacts during construction and from construction traffic could be dealt suitably mitigated by condition.

8.0 AA Screening

- 8.1.1. I have considered the Stepside Park development in light of the requirements S177U of the Planning and Development Act 2000 as amended and I have reviewed the

Appropriate Assessment Screening Report submitted with the appeal. The subject site is located approximately 4.7km north of Knocksink Wood which is the nearest European Site. The proposed development comprises the development of 19 no houses with ancillary open space. No nature conservation concerns were raised in the planning appeal.

8.1.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The limited scale of the development and its location on zoned lands immediately adjacent to an established residential area.
- The distance from the nearest European Sites and the lack of any direct hydrological connection or pathway.
- The screening determination made by the Planning Authority.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

9.1. From my assessment above, I consider that the Board should uphold the decision of Dún Laoghaire-Rathdown County Council and refuse planning permission for the proposed development based on the reasons set out below.

10.0 Reasons and Considerations

1. The proposed development, by reason of requiring vehicular access through Stepside Park, would contravene conditions attached to previous permissions relating to lands at Stepside Park granted under planning register reference D98A/1000 (PL 06D.111521), D00A/1279 (PL

06D.124391) and D03A/1213 (PL 06D.207092), which sought to limit the quantum of development accessed directly from the Enniskerry Road pending the completion of the Clay Farm Loop Road. Furthermore, the proposed development would contravene the phasing programme of the Kilgobbin Site Development Framework set out at Section 12.1 of the Ballyogan and Environs Local Area Plan 2019-2025, which requires the Clay Farm Loop Road to be in place in order to progress the development of these lands. The development would therefore be contrary to the Ballyogan and Environs Local Area Plan and would be premature pending the completion of the Clay Farm Loop Road.

2. The proposed vehicular access route from Stepside Park would be contrary to the provisions of Zoning Objective F of the Dún Laoghaire-Rathdown Country Development Plan 2022-2028, which seeks 'to preserve and provide for open space with ancillary active recreational amenities' due to the introduction of hard surfacing and a vehicular route, which would be injurious to the use of the lands for recreation and associated activities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the target density of 60 units per hectare set out in the Ballyogan and Environs Local Area Plan 2019-2025, and to the density targets set out in the Kilgobbin Site Development Framework, it is considered that the proposed development, at approximately 36 units per hectare would represent an inappropriately low density and inefficient use of zoned residential lands. As such, the proposed development represents underdevelopment and would be contrary to the Ballyogan and Environs Local Area Plan 2019-2025, and to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Terence McLellan
Senior Planning Inspector

30th April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315923-23		
Proposed Development Summary	19no. 2-storey houses comprising 17no. 4-bed and 2no. 3-bed units and all associated site and development works.		
Development Address	Kilgobbin (Td.) Stepside, Dublin 18, on a site (0.738ha) north-west of the existing Stepside Park housing development		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class 10 (b) (i), threshold >500 dwellings	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315923-23	
Proposed Development Summary	19no. 2-storey houses comprising 17no. 4-bed and 2no. 3-bed units and all associated site and development works.	
Development Address	Kilgobbin (Td.) Stepside, Dublin 18, on a site (0.738ha) north-west of the existing Stepside Park housing development	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for residential, in an area that is largely characterised by residential use. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants.</p>	No.
<p>Size of the Development</p> <p>Is the size of the proposed development</p>	<p>The size of the development would not be exceptional in the context of the existing environment.</p>	No.

<p>exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments.</p>	
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would be located in a serviced residential area and would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impacts on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>	<p>No.</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____