

CUNNANE STRATTON REYNOLDS

CSR Ref: EMP/22175

ABP Case Number TA06S.313059

15th April 2022

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 2

HAND DELIVERED

Dear Sir/Madam,

Strategic Housing Development Proposal by BCDK Holdings Limited and Coill Avon Limited in respect of proposal for demolition of buildings, construction of 178 no. residential units (72 no. houses, 106 no. apartments) creche and associated site works. Lands at Kilmashogue House and Coill Avon House, Whitechurch Road, Rathfarnham, Dublin 16.

Cunnane Stratton Reynolds Ltd., of 3 Molesworth Place, Dublin 2, make this observation on behalf of Edward Fox of 40 Pembroke Road, Ballsbridge, Dublin 4 in respect of the above application for a Strategic Housing Development under Section 8(1)(b) of the Planning and Development (Housing) Residential Tenancies Act 2016.

Attached to this observation letter is the requisite fee of €20 in the form of a cheque made payable to An Bord Pleanála.

Our Client

Our client owns those lands located between what are two separate application sites forming this application and more importantly our client owns those lands which separate these sites but also owns the lands that form the majority of the lands zoned residential in this location and which fall under Objective H3 SLO1 of the adopted South Dublin County Development Plan 2016-2022.

Our Client's Position on this Application

Our client has had a number of pre-planning meetings with the local authority for the most part to address the infrastructural and transportation deficits in the area. We acknowledge and agree that these lands are an important housing capacity site which should be developed as a residential neighbourhood and mixed use development in the short to medium term but that should be in an co-ordinated and sustainable manner capable of delivering a high quality residential development.

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Any proposed development of the entirety of the lands should take advantage of the unique setting whilst delivering connectivity and amenity for the wider area and our client's neighbours. In our view the proposed development does not achieve this and would seriously prejudice, frustrate and undermine the proposed future development of the entirety of the lands at Kilmashogue/Edmondstown.

Our client does not object to the principle of development in this location but has some very serious concerns about the development proposed and the implications for the development of his own site and the broader sustainable development of the area and the lands which fall under H3 SLO1 in their entirety.

Our client also wishes to express their disappointment that they have not been consulted or engaged in the planning application process as the major land owner in the area and the immediately adjoining landowner of that land that splits the 2 no. application sites.

Premature

The proposed development sites (in total comprising only approximately 5.72 hectares and not the 6.67ha referred to in the SHD application) must be considered premature and would be seriously detrimental to the orderly and sustainable development of the adjacent lands (comprising in excess of 22.6 hectares). Given the planning history of this area and the numerous planning applications and decisions handed down in respect of adjacent sites, we agree with SDCC and DLRCC that a co-ordinated and phased development/masterplan is required for such an important housing capacity site inside the M50 in south Dublin.

As the largest adjoining landowner by some 54 acres, our client notes that SDCC, DLRCC, Irish Water, ESB and other statutory bodies have been consulted and engaged with in respect of the proposed development but we are unclear as to why there has been no engagement or discussions with our client, and to the best of his knowledge other stakeholders in the area, by the applicants in respect of this proposed development and the wider lands. Both local authorities have emphasised on a number of occasions that a comprehensive plan allowing for the sustainable development of this area and all these SLO lands in particular should be undertaken and we would welcome and encourage such an integrated and sustainable approach.

Requirement for a Masterplan and Piecemeal Development

A masterplan has neither been provided for the applicant sites nor for the wider H3 SLO1 site including our client's lands. We submit that the proposed development would be piecemeal and frustrate the development of the much larger adjacent lands. A masterplan which identifies the constraints and opportunities of the lands is required which clearly and achievably details how any infrastructural, access and transport deficits can be overcome to allow for the delivery of a high quality and sustainable residential and mixed use development to benefit not only future residents but the wider area and neighbours.

A masterplan which provides for the orderly and phased development of this landbank, of which our client's lands comprise 80% of the developable land, is absolutely imperative and has been acknowledged as such by SDCC and DLRCC on a number of occasions. Our client's consultants are currently engaged in pre-planning discussions with the local authority and have prepared a co-ordinated and cogent masterplan allowing for the phased and orderly development of all of these lands.

Access

The access to these two separate sites is substandard and at dangerous locations on Whitechurch Road with poor sightlines. Access to the entire lands should be by way of a staggered junction which should be at least 60 metres from the junction of College Road as noted by the roads department of SDCC in a previous ABP decision related to these lands. The proposed development would require that the limited capacity of Whitechurch Road be assigned solely to the proposed development and intentionally frustrate the development of the adjacent land. This is wholly unacceptable to our client.

The application makes reference to a road connecting College Road and Edmondstown Road through my lands and Edmondstown Golf Club. There has been no engagement by the applicants with our client on this and the delivery of this road is not within the developers' gift.

Land Areas and Ownership

The applicants have miscalculated the area of land the subject of the planning application. The area of the application site is actually 5.72 and one must therefore conclude that the applicant has either miscalculated the area of their site or alternatively included land within the application site to which the necessary consent has not been achieved.

Figure 1 below shows the entries for the lands the subject of this application that are held with the Land Registry.

Figure 1: Areas of Land Held by the Land Registry

Folio Number	DN170989F	Folio Number	DN11471
Title Level	Freehold	Title Level	Freehold
Plan Number	H3TW	Plan Number	41
Property Number	1	Property Number	1
Area of selected plans	4.08 hectares.	Area of selected plans	1.64 hectares.
Number of Plans on this folio:	1	Number of Plans on this folio:	1
Address	Kilmashouge House, Whitechurch Road, Rathfarnham, Dublin 16, D16 C2P2	Address	Whitechurch Road, Rathfarnham, Dublin 16, D16 R8Y4
View Folio PDF	Request Certified Copy	View Folio PDF	Request Certified Copy

Some 4.08ha added to 1.64ha equals 5.72 and not the 6.67ha stated. The reduction of the gross site area by approximately 15% must inevitably push the stated proposed density up from the already excessive 41 units per hectare.

Ransom Strip

In addition to the poorly conceived access to the two distinct sites from Whitechurch Road, the proposed development would essentially ransom strip the vast majority of the adjacent lands. As noted in previous discussions at local authority and ABP level, a masterplan which enables the orderly and appropriate development of all entirety of these lands is required.

ESB

We note vague reference is made to the moving of ESB lines which cross our client's lands and that engagement with the ESB has occurred. No contact or approach to our client has been made to divert the existing overhead power lines running through his lands.

Watermain

Irish Water records obtained indicate that there is an existing 450mm diameter asbestos trunk watermain that crosses my lands and the site from west to east. Moving this watermain is not required to develop the majority of the SLO lands and development can be facilitated by accommodated a wayleave which would transverse through the lands (typically 6m either side of pipe) and allow the orderly development of all of these lands as is.

Our Client's Lands

Our client owns some 22.6 ha compared to the some 5.72ha (and not the 6.67ha as stated as being in the ownership of the joint applicants). Our client's lands are shown within the red line in Figure 2 below in the context of the northern and southern components of the subject SHD application shown as Areas 1 and 2 respectively. The submitted Spatial Framework Study identifies the total area of land zoned at 23ha.

Figure 2: The SHD application sites and Our Client's Lands



All the lands within the red line and those areas shown as Areas 1 and 2 are zoned residential in the adopted County Plan but subject to Objective H3 SLO1.

Planning History of the Subject SHD Application Site

Notwithstanding the deficiencies in this application it is clear that it is also at odds with the planning history of Site 2 above which is summarised below and which supports our same concerns about this current application.

Whether this Application Constitutes a SHD

In our opinion this application comprises not one but two separate and distinct application sites and therefore two quite separate developments. One of these components, the southern site, based around Kilmashogue House, reaches (relatively narrowly) over the threshold of 100 units required to be classified as an SHD. That southern component comprises 116 no. units with

the northern section comprising only 62 no. units which falls somewhat short of the 100 threshold.

We share the same concerns expressed previously by South Dublin County Council that this application does not constitute an SHD as these are two different, self-sustained development sites, with only the common thread between them being the footpath that runs along the western side of Whitechurch Road. SDCC has expressed similar scepticism about the bona fides of this application in their prior comments on the application during the tripartite consultation process and which is shown very clearly in the Appendix to the Planning Report and Statement of Consistency from the applicant themselves under the heading 'Minutes of Meetings under Section 247'. The minutes presented by the applicant in this instance in respect of Meeting No. 1 on 23rd July 2020 state that *'The landholding between the two sites needs to be considered and how it can be integrated into the development. Suggest that the third party landowner be approached.'* The minutes of the second meeting attribute the following further comments to SDCC namely that *'Connectivity – two parcels of land, disconnected, separate sites, SLO relates to a much larger area than just the current site furthermore noted that there are two separate access for both sites.'* Our client was approached to address these very valid and initial concerns which were also subsequently raised by the Board.

SDCC raised a procedural concern as stated on page 5 of the 'Statement of Response to SDCC and DLRC Opinion' where they stated: *'Proposal is across 2 sites and the northern site of 62 units may be outside the parameters of the SHD process.'*

SDCC Opinion Expressed in Section 247 Consultation

We believe that the following concerns expressed by SDCC have still not been adequately addressed.

Density and Accessibility

The local planning authority states very clearly that *'The proposal is not in accordance with H3 SLO1 of the South County Development Plan 2016-2022. Of particular concern is the proposed density, which would be contrary to the SLO in the absence of deliverable accessibility improvements and unsustainable in this location due to the existing poor transport links, substandard infrastructure for sustainable modes and poor accessibility. The density proposed would be unsustainable owing to car dependency and would not accord with proper planning and sustainable development. It is the view of the Planning Authority that the subject location is not suitable for the density proposed without issues of accessibility being fully resolved and demonstrated as delivered first.'* It is our view that these concerns remain unaddressed despite being raised as significant concerns.

Master Planning

The Planning Authority has significant concerns regarding the fragmented and piecemeal approach to the planning and delivery of the wider zoned lands. These mirror our client's concerns expressed above.

Roads and Access Concerns

The local planning authority state that at the first pre-planning meeting the applicant was asked to produce a masterplan of the entire zoned lands. This requirement has been unmet on two counts. First of all, a very superficial and inadequate Framework Strategy, which is actually a very poor substitute for the masterplan specifically requested has been provided by the applicants and secondly in terms of coverage it provides no spatial context or consideration of the area beyond the quite separate applicant sites. Secondly, a strategic assessment has not been undertaken of adjoining sites and especially not the intervening site between sites 1 and

2 of Figure 2 which seems at the very least a serious omission. The local authority lament the absence of such a plan as it is required in SDCC's view to assess the required road hierarchy not only to serve the lands of the application but also to connect the neighbouring masterplan lands in a coherent block plan. It is further stated by the local authority in the Section 247 discussions that *'it is impossible to assess if the proposed roads to serve the current two plots are positioned and aligned appropriately to link to the blocks of later phases of the masterplan.'* It is also stated by SDCC that: *'A reasonably detailed block design of the remaining phases is required to ensure the road layout and hierarchy is optimal for the entire masterplan.'* There turned out to be no 'entire masterplan' produced.

SDCC Roads Section further states the following, which is crucial in the context of previously stated concerns on piecemeal and premature development and access as per the minutes of the second Tripartite Consultation Meeting on 9th November 2020: *'As the development is in two parcels it is difficult to understand how the two sites will connect to other lands at Edmondstown. Difficult to assess suitability of internal layout, how will north and south connect, how will site connect to the west, how would link streets and homezones work.'*

We also question the accuracy the statement from the applicants that *'the existing road infrastructure is adequate and has sufficient capacity to accommodate the proposal.'*

The Opinion Expressed Previously by An Bord Pleanala

The Board itself has already expressed concern about the application. The Board has previously stated that in regard to the principle of development *'Further consideration/justification of the documents as they relate to the principle of the proposed development in the context of H3 SLO1 of the South Dublin County Development Plan 2016. The documentation submitted at application stage should demonstrate that the proposal is not premature pending determination of a road layout/increased accessibility for the area. The applicant should address why the proposed development could not be considered to be ad hoc, piecemeal, premature development in the absence of a comprehensive to the development of these residentially zoned lands. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted.'*

In the absence of any detailed or convincing argument rejecting the Boards clearly stated concerns the applicant suggests the proposed development is consistent with the sites zoned. That is indeed true but completely ignores H3 SLO1 as if it did not exist. The applicants state on page 3 of their statement entitled 'Statement of Response to ABP's Opinion that they *'were made aware of the requirements of the subject lands and the Edmondstown area in general and were made aware of the requirements to assess capacity of the lands in a masterplanning context and to take into account the need for public transport and modal access to the area to support residential neighbourhood development.'* No masterplan appears to have been produced, but a pale imitation by way of the submitted 'Spatial Framework Study' was presented just for the application lands, which also does not cover the area that it is supposed to namely the H3 SLO1 lands in their entirety.

Despite the absence of a masterplan the applicants seek to estimate the development potential of the SLO1 area between 2,750 and 3,300 without any justification for these figures.

The main infrastructure they identify as being required namely a future link road between Whitechurch Road and Edmondstown Road is not provided nor has our client, nor the adjacent golf club as far as we are aware, ever been approached by the applicants about this. The extension of public transport services into the area referred to by the applicants contains no assessment about how this will be achieved. Improved permeability to access cycling and walking routes other than College Road is unsupported by any assessment as to how this will

be achieved for the crucial roads of Edmondstown Road and Whitechurch Road rather than College Road.

On page 6 of their Statement of Response to ABP's Opinion the applicants conclude that they have engaged with SDCC and DLRCC and that the feasibility assessment leading to the proposed development could not be considered to be ad hoc, piecemeal, premature development in the absence of a comprehensive approach to the development of these residentially zoned lands. There is absolutely no substance to or substantiation of such a sweeping comment and the proposal is clearly all of the above – ad hoc, piecemeal, premature and without a comprehensive approach to development that best planning practice, H3 SLO1 expressly requires, and is clearly contrary to the proper planning and sustainable development of not only these sites but the broader area.

The response from the applicants to query no. 2 from the Board (page 7 of the applicants Response to the Board's Opinion, is without any substance on the issue of density as influenced by the circumstances surrounding the application sites.

The Proposed Development Does Not Constitute an Acceptable Material Contravention to the Adopted South Dublin County Development Plan 2016-2022

The applicants acknowledge that their proposal is contrary to the adopted County Development Plan. Their substantiation of that contravention is without any merit in our view.

The applicant's state that Section 37(2)(b) of the Planning and Development Act 2000, as amended, permits the Board to only grant planning permission where the following criteria are met. These criteria are:

- 1) The proposed development is of strategic or national importance;
- 2) There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned; or
- 3) Permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government; or
- 4) Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Our response to the applicant's justification for a material contravention in this instance as set out in their Material Contravention Statement is as follows:

The requirement under this part of the Act is for the proposal to be of strategic or national importance and one of items 2, 3 or 4 as indicated with the word 'or' between items 2, 3, and 4.

- 1) *The proposed development is of strategic or national importance*

The applicants indicate in Section 4.1 of their Material Contravention Statement that the Board have considered the application suitable for being a Strategic Housing Development (SHD). The applicants state: *'the proposed development is considered a Strategic Housing Development under the Planning and Development (Housing) and Residential Tenancies Act 2016 as it is located on zoned land and exceeds 100 no. dwelling units. The Board's opinion confirmed that the proposed development is strategic in nature under the provisions of this Act.'*

The key words in our opinion are ‘this Act’ that being the Planning and Development (Housing) and Residential Tenancies Act 2016 and not the Planning and Development Act 2000 as amended and certainly not Section 37(2)(b) (i). For the Board to take the approach of indicating that the application was of strategic importance at the earliest stage of their assessment of the application would be to fetter their discretion to consider the application under the Planning and Development Act. The Board at this stage has only confined itself to considering whether the application is suitable to be considered under the appropriate Act for SHDs. To state that all SHDs are of national or strategic importance would be to make a nonsense of including item 1 of the Principal Act, in this case the Planning and Development Act 2000 as amended.

There can be no doubt that the subject application is not of national significance. It would also be our view that two separate sites taken either individually or together do not constitute a site or development of strategic importance as this is clearly two separate sites, two separate developments and this arrangement between the first parties is a ‘marriage of convenience’ to meet this requirement. In summary, on this point, the two developments, clearly not to be considered as one proposal do not constitute a development of strategic importance under the Principal Act irrespective of whether it meets the 100 unit threshold or not.

2) There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned

We have read the applicants response to this requirement under Section 37(2)(b)(ii) of the Planning and Development Act 2000 as amended and contained within their Material Contravention Statement (MCS). We have a read a relatively large section setting out the virtues of the proposal(s) against planning policies and objectives of the adopted County Development Plan in the MCS. However, we can only see one instance where a contradiction between policies and objectives has actually been pointed out as required under this arm of the Principal Act.

Nowhere is it stated by the applicants that the objectives or policies of the adopted County Development Plan are unclear or ambiguous. The only conflict identified by the applicants occurs at the top of page 8 of the MCS. There it is stated: ‘*The Core Strategy of the Development Plan identifies Rathfarnham as a Consolidation Area within the Gateway. Map 1.3 of the Core Strategy identifies the subject site as a ‘Housing Capacity Site.’ However, this conflicts with the SLO and there is clear conflict between objectives as far as the subject lands are concerned.*’

It is quite an obvious point but the lands identified as a ‘Housing Capacity Site’ take in substantially more than the subject site(s) as shown in Figure 2 above. It includes a very substantial area of land within our client’s ownership (23ha of our client’s lands against the circa 6ha of the applicants lands). A Housing Capacity Site does not cease to be so where density or limitations to development are to be imposed. If that were to be the case there would be only a need to zone land and no requirements for any local objective.

In our view there is clearly neither contradiction or ambiguity in the County Development Plan either in the adopted County Development Plan generally, within the zoning, in the context of the core strategy or indeed in or with the SLO in this instance to meet the requirements under Section 37(2)(b)(ii) of the Planning and Development Act 2000 as amended. The applicants assertion at the end of their Section 4.2 of the MCS that the low density requirement for the site in H3 SLO1 conflicts with its location within the M50 completely ignores any sensitives or constraints that may exist within any zoned sites including Housing Capacity Sites especially where, in this instance their site(s) comprise a relatively small portion of the larger Housing Capacity Site. The whole purpose of SLOs is to advise where constraints such as in this

instance come into play against the norm for maximising densities and development opportunity. Of course the purpose of this specific SLO is to maximise development in this location given constraints in place now and into the future. This is the approach followed in the emerging County Development Plan and it would have made more sense surely for the applicants in this instance to have lodged an application(s) during a period where densities were not prescribed in the emerging plan and that proposals maximised the development potential of sites in the context of infrastructural constraints.

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

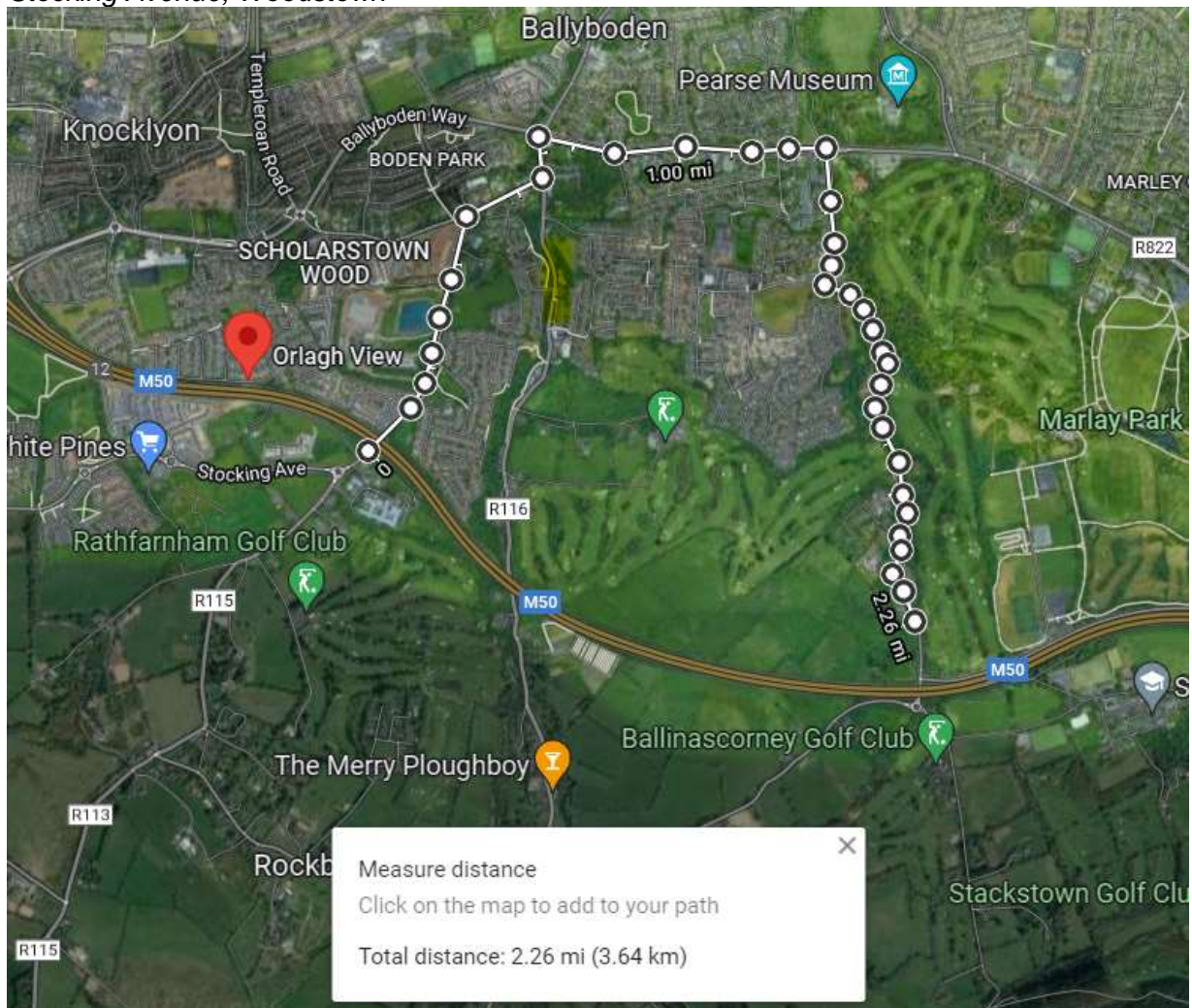
The applicants quote a substantial amount of guidance in place under sections 28 and 29 but none of these advocate imposition of a density in excess of what would be appropriate given undeniable infrastructural constraints in the area. Such guidance also does not encourage piecemeal and premature development as would occur in this instance if planning permission were granted by the Board.

- 4) *Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan*

The applicants response to this requirement is very short indeed and is based on two points in the context of 37(2)(b)(iv). Firstly, there is a reference to the site being zoned for residential development and being capable of accommodating a development with a range of house types. Secondly, there is a reference to a grant of planning permission under your ref. ABP-309836-21 for a development located at Stocking Avenue in Woodstown. It is concluded on this requirement of 37(2)(b)(iv) that *'It is therefore considered that the proposed development is consistent with the patter of development and at least ne permission granted in the area since the making of the Development Plan.'*

Our response is that there is no grant of planning permission either historic or more recently that would set an acceptable precedent for the development proposed. The Board's grant of planning permission upon completion of the SHD process for the site in Woodstown was for a site some 2.25 miles or 3.6km away and that could in no way be considered part of the area within which the application site is located. The distance and route that one would have to travel to the referenced Stocking Avenue SHD application is shown in Figure 3 below.

Figure 3: Location and Route from the Subject Application Sites to the Appeal Referenced at Stocking Avenue, Woodstown



The characteristics of the comparator case given by the applicants at Stocking Avenue in terms of location, prevailing densities, development patterns, public transport accessibility and access to services is entirely different to the subject site. The existing urban grain of the Woodstown area contrasts sharply with the rural character of the environs of the subject site(s) even though the latter is located outside the M50.

It should also be noted that when one visits the Stocking Avenue SHD website (www.whitepineseastshd.ie) the first drawing presented to the viewer is a masterplan showing the integration of that SHD site with the surrounding area through the medium of a masterplan.

Quite simply there is no precedent for a large scale development anywhere in close proximity to the subject application site. In fact, the most southerly portion of the subject application, shown in Figure 2 above, hosts a planning decision that very much adopts the position that the Board should present in this current case.

Under SD19A/0105 – Coil Avon, Whitechurch Road, Rathfarnham, Dublin (Site no. 2 of the Current Proposals shown in Figure 2 above) the following development was proposed: Construction of a residential development of 62 units: demolition of the existing house, Coill

Avon, and the construction of 28 three bedroom, two storey terraced houses; 3 four bedroom, two storey with dormer end of terrace houses and 3 four bedroom, three storey end of terrace houses, ranging in size from 110sq.m to 178sq.m with in curtilage car parking and 9 visitor car parking spaces; 16 two bed apartments over four floors (Block A), 7 one bed apartments, 5 two bed apartments over three floors and one community room (Block B) with 30 car parking spaces; bin store; secure bicycle parking; open space in two locations including woodland area of 1,795sq.m and a Green of 708sq.m; new boundary treatment; landscaping and all associated service provision including two substations and alterations to the shared access and vehicular bridge to Coill Avon and Lynbrook on a site of 1.76 hectares (1.6 hectares application site and balance 0.16 hectares includes a section of the public road to facilitate connection to the public foul drainage system).

Permission was refused in that case for the following reasons which we believe should be repeated in this instance.

1. The scheme did not adequately address the Specific Local Objective H3 SLO1 attached to the site.
2. Significantly in excess of the 'low density residential development' attached with the Specific Local Objective H3 SLO1
3. The proposed development would seriously injure the amenities of adjacent residential properties.

A further planning application under SDCC reg. ref. SD06A/0826 at lands to the West of Kilmashogue Bridge involved the proposed construction of 42 no. dwelling houses; the construction of vehicular access to Whitechurch Road and internal access roads and footpath; the construction of approximately 1,400 linear metres of 80mm foul water rising main along Whitechurch Road to serve the application site and an on-site subterranean pumping station; the realignment of the existing 450mm water main along the southern boundary; the provision of landscaped public open spaces and boundary treatments; and all other site development works above and below ground required to facilitate the proposed development.

That application SD06A/0826 was refused permission by SDCC for the following reasons

1. Whitechurch Road in its present state was not capable of serving this number of houses safely.
2. Narrow twisting rural road with only one narrow footpath.
3. Residential units required a 30m setback from M50.

On appeal the reasons advanced by the Board included the need for a comprehensive approach to the development of not only that site, between this masterplan site and the M50, but the other areas including our client's site, for the purposes of providing a coordinated access option.

A more recent case is particularly relevant. It relates to the quashing of a grant of planning permission by ABP for a 496 unit SHD residential scheme under your ref. ABP-307222-20 on a site at the corner of Taylors Lane and Edmondstown Road, Ballyboden. The grant was quashed on two grounds namely that the density and quantum of development was considered excessive and contrary to planning policy and guidance and secondly that the Board did not have sufficient regard to the capacity of public transport in the area. This was not considered as an issue by the Board but was identified by SDCC as a key concern where it recommended a refusal of planning permission based on the following suggested reason: *'Notwithstanding its location within the built-up area of Dublin, and proximity to certain bus routes, this development on former institutional lands would, by virtue of its scale and density, and the proposed provision of 371 no. car parking spaces in an outer suburban area, be unsustainable development. The development would therefore contradict national and regional policy, and would not accord with*

the 'RES' land-use zoning objective and the South Dublin County Council Development Plan 2016 – 2022, and would therefore not accord with the proper planning and sustainable development of the area.' Justice Holland quashed the decision partly on the grounds that the board had failed to take public transport capacity for the area properly into account. We believe that inadequate consideration has been given by the applicants in this case to public transport provision other than to provide a bus turning circle within the proposed development. On this issue the Board are also referred to the attached submission by Roughan O Donovan Transport Engineers on behalf of this third party.

In response to these stated concerns from SDCC the applicants state that they do not have consent to provide indicative layouts or a masterplan for lands outside of their control. No such engagement, even at a relatively superficial level, was ever sought.

Comments from Roughan O Donovan on behalf of Our Client

The comments from Roughan O Donovan (ROD) relate to (1) water supply and foul drainage and (2) Transport and Access.

Water Supply and Foul Drainage

In respect of (1) water supply and foul drainage the following is a key excerpt from the ROD supporting statement to our client's case:

'The Engineering Report submitted for planning states on pg. 17 and pg. 22, states that an allowance has been made for foul and water supply spur connections to the west of the applicant's site to allow for future connections to the zoned lands adjacent to the site. These spur locations do not appear to be shown on planning drainage drawings EDM-CSC-GF-XX-DR-C-0007 or EDM-CSC-GF-XX-DR-C-0006. It would have been expected that engagement would have been made with the surrounding landowners regarding the location of potential spurs to serve adjacent developing lands. It is not clear from the supporting foul calculations included in Appendix B of the Engineering Report how surrounding lands have been accounted for within the foul drainage design.'

In respect of (2) transport and access the key points from ROD against this planning application are as follows:

Public Transport Accessibility

The Transport Assessment Report submitted with the application indicates that there are bus services at Whitechurch Green that are accessible to development within 1km to the northern site and 1.3km to the southern site. These are not accurate. The real distances from inside the development to the bus stop at Whitechurch Green measures 1.3km and 1.6km from the northern and southern site respectively. This is outside what would be considered an ideal walking distance. It is also considered that the bus services that operate to / from Whitechurch Green are also relatively limited in terms of bus routes and frequencies.

More frequent bus services operate along Taylor's Lane, some 2km and 2.3km from the northern and southern site respectively.

These are far from ideal distances to expect people to walk to access bus services and are a significant deterrence to the uptake of public transport as a means of travel for the proposed development. With such poor accessibility to public transport, it is considered by ROD that the proposed development would be very reliant on car-based travel, resulting in a very unsustainable development.

The Transport Assessment Report submitted with the application also considers the potential improvements in bus services and accessibility to these bus services in the medium term. This improved accessibility to public transport is not guaranteed according to ROD. As noted in the Transport Assessment Report, the NTA Bus Connects Network does not propose any improved services along Whitechurch Road or College Road. Market demands may result in the extension of bus services to the area, but only realistically in the long term and the proposed development should not be reliant on such improvements.

The applicant also identifies a potential connection to Edmondstown Road where additional bus services could be accessed. This can only be delivered through our client's land. No effort has been made by the applicant to consult and coordinate with our client on such a potential connection.

Transport Demand and Analysis

The traffic demand assessment included in the Transport Assessment Report has been prepared on the basis of data obtained from the TRICS database, which is likely to downplay the actual traffic demands that would be generated and therefore also downplays the associated traffic impact resulting from the proposed development.

The assessment of the bus passenger demand resulting from the proposed development has been determined based on CSO commuter data for the existing residential areas to the north at Whitechurch Green. These existing residential areas are directly served by the bus service that operate in those residential areas and these areas are significantly closer to the wider bus service that operate on Taylor's Lane. It is considered that this assumption is very optimistic considering the excessive walking distance from the proposed development to access these bus services, and it is therefore downplays the transport impacts of the proposed development.

Road Alignment Design

There have been no attempts to consult and coordination with our client on any link road. It is considered essential that the design of any such links are developed in consultation with the owners of the adjoining zoned lands and all stakeholders to ensure that they are deliverable and appropriate.

The proposed link road measures more than 400m from the junction with Whitechurch Road to the western boundary of the site. The horizontal alignment of this link street is virtually straight, which will encourage excessive traffic speeds. In addition to the alignment this road has been designed with no direct frontage access or on-street parking, which further promotes high traffic speeds. The design of the link road through the proposed development is therefore not consistent with the Design Manual for Urban Roads and Streets (DMURS).

Road Safety Audit

ROD state that the Road Safety Audit submitted with the application and included as an appendix to the Transport Assessment Report identifies an issue with the design of the proposed signalised junction at Whitechurch Road / College Road and includes the following recommendation (item 3.3):

'It is recommended that provisions for cyclists be made on all approaches to the junction, for crossing and turning at the junction and for transitions from carriageway to raised /shared areas and from one-way cycle facilities to two-way facilities.'

It is ROD's view that the junction design submitted with the application has not addressed this road safety issue and it is not clear that there is sufficient space for the provision for cyclists as recommended.

ROD believe that the above deficiencies in this SHD planning application are so significant that they warrant a refusal of the application by An Bord Pleanála.

It is CSR's view that there are other planning based reasons specified above why planning permission should be withheld on this occasion.

We await your acknowledgement of safe receipt and await your determination of this application.

Yours sincerely,



Eamonn Prenter MIPI MRTPI

Director

CUNNANE STRATTON REYNOLDS

LAND PLANNING & DESIGN

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