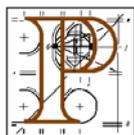


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL 29N.246250

Development:

Planning permission for development at this site 0.68 hectares site at No. 1, 1A and 1B (and lands to the rear of same) Sybil Hill Road, Raheny, Dublin 5, a site bounded by St. Pauls School to the south, Sybil Hill Road to the west, The Meadows residential development to the East and North and the Kare Social Services Centre to the north. The development will consist of: The demolition of 3 no habitable dwellings at 1, 1A and 1B Sybil Hill Road, the erection of 76 no. dwellings consisting of; - 8 no. two storey terraced houses consisting of 1 no. 2 bed & 7 no. of 3 bed houses of between 124.3 & 138.3sq.m each; - 10 no. 1-bed apartments at between 54.9 & 62.9 sq.m each, 53 no. 2-bed apartments at between 77.1 & 99.6 sq.m, 5 no. 3-bed apartments at between 102.7 and 111.7 sq.m each, plus balconies and roof gardens, in two no. buildings varying in height from three to five storeys; - Crèche facility of 97.8 sq.m and associated play space on the ground floor of Block A; - Community/cafe of 132.8 sq.m and associated garden on the ground floor of Block A; - A basement car park containing 105 car spaces; - Boiler house, bin store, bicycle storage for 120 bicycles and ancillary facilities; - The closing of 4 no. existing site entrances and the creation of 2 no. new site entrances on Sybil Hill Road (a ramped entrance to the basement car park and a fire service and pedestrian entrance); - ESB substation and switch room facility on Sybil Hill Road; - Associated landscape works

Planning Application

Planning Authority:	Dublin City Council
Planning Authority Reg. Ref.:	4242/15
Applicant:	MKN Developments Ltd.
Planning Authority Decision:	Grant Permission with conditions

Planning Appeal

Appellant(s):	(i) Seán Ryan (ii) James C. Cahill (iii) The Meadows Residents Association
Type of Appeal:	Third Party – V - Grant

Observers:

- (i) Seán Haughey TD
- (ii) Ralph MacDarby
- (iii) Barbara Cahill
- (iv) Prof. Pádraig Breatnach & Ms Jutta Breatnach
- (v) Patrick Stanley, Georgina Moore & Peter Smyth
- (vi) Raheny Heritage Society
- (vii) Cllr. Deirdre Heney
- (viii) Finian McGrath TD

Date of Site Inspection: 21st June 2016

Inspector: Tom Rabbette

1.0 SITE LOCATION AND DESCRIPTION

The following is an extract from the Inspector's Report on PL 29N.244588 relating to a proposed development on the same site, I broadly concur with this 'Site Location and Description':

"The site, with a stated area of 0.6841ha (1.69 acres), is located on the east side of Sybil Hill Road, just to the south of the junction of that road with Hawth Road, in Raheny, Dublin 5. Vehicular access to the site is from Sybil Hill Road only. There is a 2.5m wide footpath along the site frontage and a 3.5m grass verge along most of the site frontage, with some 6 no. semi-mature standard trees. Double yellow lines extend along the site frontage from the signalised junction with Hawth Road to roughly half way along the frontage of no. 1A Sybil Hill Road. There is a signalised pedestrian crossing on Sybil Hill Road to the south to the appeal site – to facilitate crossing at the schools and the nursing home in the area. The nursing home is a four/five storey structure located within its own grounds on the opposite side of Sybil Hill Road – to the southwest of the appeal site. St. Brigid's NS is a part single, part two-storey complex located opposite the site on Sybil Hill Road. The principal access to this school is from Hawth Road.

The site is flat. It currently comprises the curtilage of 3 no. two-storey houses to the rear of which is a vacant site, formerly occupied by an indoor swimming pool complex associated with the adjoining St. Paul's College secondary school to the south and southeast. The rubble from the demolished swimming pool complex remains on the site. There is one lean-to shed against the northern boundary wall (associated with the swimming pool) which has not been demolished. There is a vehicular access to the swimming pool site from Sybil Hill Road. The remains of a former stand-alone glass house in the southern part of a walled garden (which comprises the most part of the site) are still on site in the form of a pile of rubble. The site is overgrown and derelict. There are a number of semi-mature beech and birch trees and an old apple tree within the southern section of the old walled garden. No 1 Sybil Hill Road is a two-storey Arts & Crafts-style house of some architectural merit. It has painted dash walls with brick detailing and a slate roof. It is of a period and style with the KARE Social Services building to the north of it. There are 2 no. on-site parking spaces associated with this house. The house is currently vacant. No.s 1A & 1B are more modern, two-storey houses of little architectural merit – each of which has 2 no. on-site parking spaces. Both of these houses are occupied. The boundary between the three houses and the former swimming pool site is an old 3m high stone/brick wall which would formerly have formed one of the walls of a walled garden for adjoining Sybil Hill House (now the community residence of the Vincentian Fathers who run St. Paul' College Secondary School). There are two former doorways/gateways within this wall which have been blocked-up. All three houses are built up against the wall.

To the west, the site abuts Sybil Hill Road – the boundary with which is a variety of concrete block walls – plastered and unplastered. To the northwest, the site abuts a two-storey building occupied by KARE Social Services Board – the boundary with which is a concrete post and chainlink fence and 3.0m high clipped Grissellinia hedge. There is parking for one van within the curtilage of the KARE site. To the north and east, the site abuts The Meadows housing estate of detached two-storey houses with fully hipped roofs – the boundary with which comprises 3.5-4.0m high stone/brick walls (walls of the former walled garden which existed on this site). Part of this wall is ivy-clad. The land on which The Meadows was built once formed part of the curtilage of Sybil Hill House. There are some semi-mature scrub sycamores within The Meadows adjacent to the northern boundary wall of the site. To the south, the site abuts the gardens of Sybil Hill House (a Protected Structure) – the boundary with which is an old plinth wall with granite capping – surmounted by iron railings. There is a damaged pedestrian gate within this boundary. There is a recently-planted single row of Leyland Cypress trees set back approximately 2.5m from the south side of this plinth wall and railings. Further to the south again is a row of recently planted standard deciduous trees. At the southwest corner of the site (adjacent to the entrance to the former swimming pool) the boundary with the grounds of Sybil Hill House comprises a 2.3m high block wall surmounted by a 1.0m high palisade fence. This wall is screened by mature planting on the Sybil Hill House side. There is no defined boundary between the two-storey Sybil Hill House and the associated two-storey school building to the south of it. The school is located at a lower level – some 2m below the level of Sybil Hill House.

The junction of Howth Road and Sybil Hill Road has recently been realigned. Travelling from the city towards Howth, there are now two lanes and a bicycle lane. Traffic can only proceed straight on or turn left into Brookwood Avenue. There is no right turn into Sybil Hill Road. Travelling from Howth in the direction of the city, there are two lanes, one of which is a dedicated right-turning lane into Brookwood Avenue. Traffic can turn left into Sybil Hill Road. There is a new bus lane between the junction and Killester to the west. On Sybil Hill Road there is only one lane of traffic approaching the signalised junction with Howth Road. However, in practice, traffic forms two lanes – the right hand one effectively being a dedicated lane for traffic turning right into Howth Road. The same applies for Brookwood Avenue to the north of the junction – with one lane effectively being used as two lanes – the right hand one of which is a dedicated right-turning lane into Howth Road. The junction is fitted with pedestrian crossings on all four arms.”

2.0 PROPOSED DEVELOPMENT

This is an application for a residential development on lands zoned Z15. The development is to be delivered in three structures, referred to as Blocks A, B and C in the application documentation.

It will accommodate 76 residential units, consisting of 8 terraced dwellings and the rest, 68 units, will be apartments. It will be a mix of 1, 2 and 3-bedroom units. Block A is an L-shaped building in plan form and fronts onto the Sybil Hill Road, it contains apartments. However, it will also accommodate a crèche facility and a community/café unit located in the ground floor towards the southern end of the block. Block B will be located along the southern boundary of the site and will accommodate apartments. Block C is located to the north-east of the site and it is made up of a terrace of 8 houses.

The heights will vary across the site. Block A will step up from 3-storeys at its northern end, to 4-storeys towards its centre fronting onto Sybil Hill Road, and 5-storeys at its southern end. Block B will be a predominately 3-storey structure with one 4-storey element at its western end. Block C will be 2-storeys.

The proposal also includes for a basement car park accommodating 105 car parking spaces and bicycle storage for 120 bicycles. The development proposes demolishing 3 habitable dwellings located along the Sybil Hill Road.

3.0 PLANNING HISTORY

3.1 Current Appeal Site:

3074/10 (PL 29N.238232): The Board overturned a decision by the p.a. to grant permission, subject to conditions, for a development consisting of the demolition of 3 habitable dwellings and the construction of 98 dwelling units (houses and apartments) on this site. The Board refused for 3 reasons. The history file is attached to the current appeal. The Board held an Oral Hearing into that appeal.

3383/14 (PL 29N.244588): The Board overturned a decision by the p.a. to grant permission, subject to conditions, for a development consisting of the demolition of 3 habitable dwellings and the construction of 79 dwelling units (houses and apartments) on this site. The Board refused for 2 reasons. The history file is attached to the current appeal.

3.2 Adjacent Site:

4185/15: Current application with the p.a. for lands to the east of the current appeal site, these lands also form part of the Z15 zoning and are also subject of the masterplan that forms part of the current appeal, the development description in relation to that application reads as follows: "*The development will consist of: 1) the demolition of 3 no. existing school (and school related) structures - modular prefab classrooms (694 sq.m.); a disused classroom block (327 sq.m.) and a changing room block (153 sq.m.);, 2) the construction of an access road with footpaths and on-road cycle tracks from Sybil Hill Road*

between Sybil Hill House (protected structure) and St Paul's College incorporating new accesses to Sybil Hill House and St Paul's College and the provision of new wall and railing boundary treatment along the new road and new pedestrian/vehicular gates to the new and existing accesses to Sybil Hill House and St Paul's College; 3) the widening and realignment of an existing vehicular access onto Sybil Hill Road to facilitate the proposed access road; 4) the construction of 2 no. all-weather playing pitches - 1 no. 134m x 85m multi-use pitch with 6 no. 18m high columns each with 4 no. lamps and 1 no. 32m x 54m soccer pitch with 8 no. 12m high floodlights each with 2 no. fittings - and associated 3 metre high perimeter fencing and netting; 5) the construction of a part one, part two storey multipurpose sports hall (1,467 sq. m.); 6) the construction of a hard landscaped courtyard for St Paul's College between the college and the proposed sports hall; 7) the provision of 20 no. car parking spaces and 3 no. coach parking spaces along the sides of the existing internal access road to the south of St Paul's College; 8) the construction of a residential development comprising 381 no. units - 107 no. houses (29 no. three bedroom (2 no. 2 storey detached; 8 no. 3 storey semi-detached; 19 no. 3 storey terraced) and 78 no. four bedroom houses (30 no. 3 storey detached; 20 no. 3 storey semi-detached; 18 no. 3 storey end-of-terrace; 10 no. 3 storey terraced) and 274 no. apartments (51 no. one bedroom; 174 no. two bedroom; and 49 no. three bedroom) in 6 no. five storey blocks comprising ground floor with three storeys over plus penthouse with a basement providing 284 no. car parking spaces including 10 no. visitor spaces and electric car parking/charging spaces, 292 no. cycle parking spaces, refuse storage areas and plant areas and balconies and terraces on each elevation at first to fourth floor levels) - two public open spaces (total 4,534 sq. m.) and 5 no. ESB substation/switchroom buildings; and 9) all other site development works above and below the ground including internal access roads and footpaths, bicycle parking, bin storage, incidental open space and landscaping and surface water attenuation facilities required to facilitate the proposed development. An Environmental Impact Statement (EIS) will be submitted to the Planning Authority with the application." That application is the subject of an FI request by the p.a. at time of writing.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

Planner's Report dated 18/02/16:

- Permission recommended subject to conditions.

Engineering Department Drainage Division Report dated 27/01/16:

- No objection subject to conditions.

Waste Regulations Unit Report dated 27/01/16:

- Conditions recommended.

Roads & Traffic Planning Division Report dated 05/02/16:

- No objection subject to conditions.

Parks & Landscape Services Report dated 15/02/16:

- Provision of public open space is not required due to proximity and accessibility of St. Anne's park.
- A financial contribution in lieu of the open space provision recommended.
- Conditions recommended.

Housing & Residential Services Report dated 27/11/15:

- Part V compliance by way of provision of 10% of units on site.

PAC 0472/15 held on the 01/09/15: Matters referred to at the pre-application consultation meeting included: preparation of a masterplan; Block B amended; applicant advised to break up elevations; landscaping, and open space.

Observations/objections: Observations/objections on file addressed to the p.a. make reference to the following: 2 previous refusals; visually intrusive development; impact on historic Sybil Hill House; impact on the streetscape; non-compliant with zoning; traffic impacts; overdevelopment; loss of privacy; loss of playing fields; lack of adequate masterplan; scale; height; bulk; ABP refusals still valid; not within 500 m of DART Station; parking implications; flooding concerns on adjacent properties; drainage concerns; impact on garden wall; overshadowing; height of proposed terrace; impact on hydrology of local environment, and validity of the application questioned.

4.2 Planning Authority Decision

By Order dated 18/02/16 the planning authority decided to grant permission subject to 27 conditions.

5.0 GROUNDS OF APPEAL

Seán Ryan, The Meadows, Howth Road, Dublin 5.

The contents of appeal from the above can be summarised as follows:

- The Board is requested to overturn the p.a. decision.
- The current application is almost identical to the two previous permissions granted by DCC and rejected by ABP (ref: 3074/10 and 3383/14).
- Refers to comments in the Inspector's Report on PL 29N.244588.
- This 'brownfield' site has been created by the destruction of community facilities and the proposed development is totally inconsistent with the Z15 zoning.

- The Masterplan merely confirms that the proposed development would be contrary to the proper planning and sustainable development of the area.
- The scale, height and bulk of the proposed development is essentially unchanged from the previous application therefore all the objections raised by ABP are still valid.
- The proposal to demolish a substantial section of the wall forming part of the walled garden is unchanged, notwithstanding the finding of ABP that this would be contrary to policy FC30.
- Proximity to the DART station.
- Overshadowing created.

James C. Cahill, The Meadows, Howth Road, Dublin 5.

The contents of appeal from the above can be summarised as follows:

- Under Z15 zoning matrix, residential development does not fall under 'permissible uses', however, it is listed for 'open for consideration'.
- The grant of permission is in no way consistent with the Z15 zoning and should be rescinded.
- The lands are located within the curtilage of Sybil Hill House, a protected structure.
- The lands contain historic elements of the formal gardens of Sybil Hill House in the form of the historic walled garden.
- A masterplan has not been provided, the masterplan mentioned is from another developer.
- The proposal is visually obtrusive, excessive in density, poor layout, will impact on sunlight access, will cause loss of privacy, will overlook classrooms and will add to an already busy traffic hazard every school day.
- Every building in the area is set back from the footpath, whereas block A is to be built right up to footpath, it will destroy the character of Sybil Hill Road.
- The DART Station is in excess of 800 m of the development, 'as the crow fly's' is irrelevant as humans no longer fly.
- Concerns raised about traffic generated at the junction of Howth Road, Brookwood Avenue and Sybil Hill Road.
- Strongly objects to houses being built to the rear of 19 to 26 The Meadows.
- Raises concerns about the density proposed.
- No provision has been made as is required for public open space.
- Submission is accompanied by, *inter alia*, photographs.

The Meadows Residents Association

The contents of appeal from the above can be summarised as follows:

- Current proposal does not materially address the issues which were cited by ABP when rejecting the last application.

- It has not fundamentally altered in any way the damage to the amenity of nearby residents, the damage to a protected historical structure or the overall visual impact to the area.
- It is not consistent with the zoning objective.
- Two attempts to have the land rezoned as Z1 were both rejected by the democratically elected council members.
- Concerns raised in relation to the scale, height, massing and density.
- It would be visually obtrusive and out-of-character with the established pattern of development in the vicinity.
- It would constitute over-development of the site.
- It would result in overshadowing of adjoining property to the north.
- The houses in Block C should be built to the same height as the adjoining neighbours in The Meadows.
- If allowed to be built it would be visually obtrusive on the top of the hill and be completely out-of-character with any other structure within a 3 km radius.
- The developer has not addressed concerns raised in the last planning application with respect to amenity and physical damage to Sybil Hill House and the walled garden respectively.
- Mix of houses and apartments is not in-keeping with the residential nature of the area.
- Car parking is inadequate and will lead to significant overflow parking on Sybil Hill and surrounding streets.
- The proposed crèche and café/community centre are just a sop to the development.
- The traffic generated by this development will add to an already heavily congested area close to two schools where more than 1000 pupils attend every school day.
- The traffic reports submitted by the developer were executed when all of the schools were on holiday.
- There will be a blind entrance/exit to the development.
- The proposed development is considerably more than 500 m from the nearest DART Station.
- The bus service at peak times is now oversubscribed.
- The appeal submission has 38 signatories.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 Planning Authority response

The contents of the planning authority's response to the grounds of appeal can be summarised as follows:

- The Board is referred to the p.a. planner's report on file and to an attached report (dated April 2016) from the DCC Parks and Landscape Services which outlines how financial contributions in lieu of public

open space will go towards specific actions under three management policies for St. Anne's Park.

6.2 First party response

Applicant's response to the appeal by Seán Ryan can be summarised as follows:

- The site and its location are described.
- The planning history pertaining to the site is assessed.
- Description of the proposed development provided.
- Net and gross floor area proposed across the three applications (2 previous and the current) are compared and contrasted.
- The current proposal addresses the reasons for refusal listed in the Board's most recent decision on the site.
- Proposals complies with the zoning objective, the applicant refers to section 15.10.14 of the CDP.
- The letter submitted from the Vincentian Order confirms that the design team has liaised with the Order to ensure that the proposed development will not have any adverse impact on the current or future operation of St. Paul's College which accounts for the community and institutional uses on the separate adjoining Z15 lands.
- It is noted that by virtue of a revision to the 2011-2017 CDP, 'residential' use is open for consideration on Z15 land.
- The applicant has taken on board ABP's previous comments and the application submitted to DCC was accompanied by an overall masterplan for the Z15 lands.
- The masterplan submitted with the application confirms that the Vincentians have no requirement for the subject site which is owned by MKN for the future operation of the school and indeed have had no requirement since they sold the lands in 2006.
- Letters submitted from the Department of Education and Skills confirming that the development of adjoining lands at St. Paul's will not adversely affect future projections and that the Department are satisfied and have no objection to the adjoining development.
- The applicant responds to submissions concerning the design, scale, height, bulk and visual impact on Sybil Hill House.
- The applicant submits that the loss of part of the existing remaining garden western wall will facilitate and enhance the visual appearance of the remaining elements which will be retained and remediated where required.
- It is important to note that the Board previously did not raise any concern in the refusal reason regarding the western wall.
- Applicant refers to the proximity of the DART Station.
- Applicant responds to issues raised regarding overshadowing.
- The Board is requested to uphold the p.a. decision to grant permission.

Applicant's response to the appeals by James C. Cahill and The Meadows Residents Association can be summarised as follows:

- The site and its location are described.
- The planning history pertaining to the site is assessed.
- Description of the proposed development provided.
- Net and gross floor area proposed across the three applications (2 previous and the current) are compared and contrasted.
- The current proposal addresses the reasons for refusal listed in the Board's most recent decision on the site.
- Proposals complies with the zoning objective, the applicant refers to section 15.10.14 of the CDP.
- The letter submitted from the Vincentian Order confirms that the design team has liaised with the Order to ensure that the proposed development will not have any adverse impact on the current or future operation of St. Paul's College which accounts for the community and institutional uses on the separate adjoining Z15 lands.
- It is noted that by virtue of a revision to the 2011-2017 CDP, 'residential' use is open for consideration on Z15 land.
- The applicant has taken on board ABP's previous comments and the application submitted to DCC was accompanied by an overall masterplan for the Z15 lands.
- The masterplan submitted with the application confirms that the Vincentians have no requirement for the subject site which is owned by MKN for the future operation of the school and indeed have had no requirement since they sold the lands in 2006.
- Letters submitted from the Department of Education and Skills confirming that the development of adjoining lands at St. Paul's will not adversely affect future projections and that the Department are satisfied and have no objection to the adjoining development.
- The applicant responds to submissions concerning the design, scale, height, bulk and visual impact on Sybil Hill House.
- The applicant responds to appeal submissions concerning potential impact on adjoining residential amenities – overlooking, loss of sunlight, daylight and privacy.
- The applicant submits that the loss of part of the existing remaining garden western wall will facilitate and enhance the visual appearance of the remaining elements which will be retained and remediated where required.
- Applicant refers to the proximity of the DART Station.
- Applicant responds to traffic and parking concerns raised in the appeals.
- The Board is requested to uphold the p.a. decision to grant permission.
- Submission includes, inter alia, plans and sections prepared by the applicant's architects; a response by ARC Consulting Architects being an addendum report on the assessment of daylight and sunlight access, and a response prepared by ORS to address perceived traffic impacts.

6.3 Observations on grounds of appeal

Seán Haughey TD, Kilmore Road, Artane, Dublin 5.

The contents of the observer submission from the above can be summarised as follows:

- Opposed to the development.
- A significant residential development should not be considered for a site like this as if there was a Z1 zoning in place, the lands are zoned Z15.
- The current application is not significantly different from the previously refused one, it should be rejected for the same reasons.
- The 25% open space requirement has not been met.
- The acceptance of a financial contribution in lieu of this should not be contemplated.
- Increased traffic arising would be of major concern.
- The cumulative impact of both this proposal and that subject of 4185/15 should be taken into consideration when determining the application.
- Concerns raised in relation to height, overlooking and loss of sunlight.
- The development is not sustainable.
- It is too bulky.

Ralph MacDarby, The Meadows, Howth Road, Dublin

The contents of the observer submission from the above can be summarised as follows:

- Protests most vigorously the permission granted by DCC.
- Refers to Z15 zoning and a Masterplan.
- The proposed entrance to the site encroaches on the curtilage of Sybil Hill House to at least the same if not greater extent than that which was cited as one of the reasons for a previous refusal.
- The house known as No. 1 Sybil Hill Road should be protected and preserved.
- Traffic concerns raised.
- Concerns raised in relation to infrastructure required to serve the development with reference to water pressure in the area, storm water drainage and foul drainage.
- The proposal should be rejected.

Barbara Cahill, The Meadows, Howth Road, Dublin 5.

The contents of the observer submission from the above can be summarised as follows:

- Permission should be rescinded.
- The lands are located within the curtilage of Sybil Hill House, a protected structure.

- The lands contain historic elements of the formal gardens of Sybil Hill House in the form of the historic walled garden.
- The masterplan does not consider the combined impact on Sybil Hill House of two separate developments.
- Proposal contravenes Z15 zoning and previous decisions on the site.
- Scale, height and bulk of the proposal is of concern.
- It will seriously injure the visual and residential amenities of the area.

Prof. Pádraig Breatnach & Ms Jutta Breatnach, Vernon Ave., Dublin 3.

The contents of the observer submission from the above can be summarised as follows:

- Observers support the appeals.
- Application is invalid as the application form does not state that the development is within the curtilage of a protected structure.
- Rezoning attempt was refused.
- The application does not differ significantly from the previously refused scheme.
- The current proposal is trying to 'piggy-back' on the recent application ref. 4185/15.
- Observers cite Policy NC10 and s.12.4.4 of the CDP.
- Observers raise a number of issues in relation to the submitted masterplan.
- The observers quote extensively from the applicant's Planning Report and add their comments on specific points made therein.
- The observers recap on the history of attempted Z1-type development on this Z15 zoned swimming pool site.
- In comparison with previous refused applications, the most recent application has reduced the number of units by a negligible amount (98, then 79, now 76).
- The land remains zoned Z15, DCC thus has no grounds on which to override the previous refusals of permission by ABP.

Patrick Stanley, Conquer Hill Ave., Georgina Moore & Peter Smyth, Vernon Drive, Dublin 3.

The contents of the observer submission from the above can be summarised as follows:

- Observers support the appeals.
- Application is invalid as the application form does not state that the development is within the curtilage of a protected structure.
- Rezoning attempt was refused.
- The application does not differ significantly from the previously refused scheme.
- The current proposal is trying to 'piggy-back' on the recent application ref. 4185/15.

- Observers raise a number of issues in relation to the submitted masterplan.
- The observers quote extensively from the applicant's Planning Report and add their comments on specific points made therein.
- The observers recap on the history of attempted Z1-type development on this Z15 zoned swimming pool site.
- In comparison with previous refused applications, the most recent application has reduced the number of units by a negligible amount (98, then 79, now 76).
- The land remains zoned Z15, DCC thus has no grounds on which to override the previous refusals of permission by ABP.

Raheny Heritage Society

The contents of the observer submission from the above can be summarised as follows:

- The Board should rescind the p.a. decision.
- The zoning has been confirmed by the elected member of the p.a.
- Development does not comply with the CDP.
- The scale, height, density and nil pavement set back do not conform to existing development in the area.
- History of the site provided by the observer.
- Not a single concern raised by the observers to the p.a. was made a condition of the permission.
- It is the hope of the observer that the complete existing three sides of the Garden Walling are preserved in their entirety.
- Cites the previous ABP's Inspector's Reports in relation to the Walled Garden.
- Refers to application ref. 4185/15.
- Observer refers to DART services and local road network restrictions.
- The successful granting of planning approval of either the subject application or that subject of 4185/15 on Z15 lands will create a threatening precedent to St. Anne's Park frontage.
- These proposed developments will obliterate a part of the area's heritage and have a direct/indirect impact on the area's community facilities.
- The proposed development will be out of character and be a blight on the landscape.

Cllr. Deirdre Heney, Collins Ave. East, Dublin 5.

The contents of the observer submission from the above can be summarised as follows:

- Requests that all concerns of residents living in The Meadows are taken into account before the Board reaches a decision.

Finian McGrath TD, Dail Eireann

The contents of the observer submission from the above can be summarised as follows:

- Previous reasons for refusal are still valid.
- This proposal is in material contravention of the Z15 zoning.
- The provision of financial funds in lieu of the 25% public open space requirement is extraordinary and unprecedented.
- The development, by reason of its scale, height, density and also its proximity to Sybil Hill Road would be visually obtrusive and out-of-character with the established pattern of development in the vicinity and would constitute over-development of the site.
- The masterplan is not comprehensive and doesn't set out a clear vision for the entire site when it is obvious an unacceptable piecemeal approach is being adopted.
- Concerns raised in relation to traffic.
- Concerns raised in relation to local drainage issues.

7.0 Further Responses

James C. Cahill

In a further submission, received on the 15/04/16, from the above appellant, a letter from Cllr. Naoise Ó Muirí was submitted which referred to the following:

- Development scale and impact on the Sybil Hill vista.
- Traffic and parking.
- Distance to public transport hub.

The contents of a further submission, received on the 05/05/16, from the above appellant can be summarised as follows:

- Response to the applicant's submission.
- St. Paul's College for the year 2015 was over-subscribed for the intake of students.
- The CSO has said many times that Ireland has an increasing population and more schools will be needed.
- The applicant's agent is incorrect in stating that the student population is static.
- Block C (the terrace of houses) is located on ground that is a minimum of 1 m higher than the ground at The Meadows.
- Refers to walking distance to Dart, refers to bus and Dart service difficulties.

The Meadow Residents Association

The contents of a further submission, received on the 16/05/16, from the above appellant can be summarised as follows:

- Response to the applicant's submission.
- The fundamentals of the residents' objections have not changed.
- The planning process is flawed in the way a developer can keep applying for permission every 6 months while making little or no material change to their plans.

- Delivery of new housing should not be done at the expense of destroying the amenities of others and maximising the profits of private developers.
- Submission includes two letters from the p.a. concerning alleged unauthorised dumping at the application site.

Seán Ryan

The contents of a further submission, received on the 04/05/16, from the above appellant can be summarised as follows:

- Response to the applicant's submission.
- The applicant's response contains nothing new and fails again to adequately address the reasons given by ABP for rejecting the two previous applications.
- It is proposed to demolish all of the western wall, not 30%.

8.0 POLICY CONTEXT

The operative plan for the area is the Dublin City Development Plan 2011-2017. The site is located in an area where the land use zoning objective Z15. Other sections of the CDP of direct relevance are:

Section 12.4.4 Schools and Educational Facilities

Section 15.9 Transitional Zone Areas

Section 15.3 Policy Approach

Section 15.4 Permissible and Non permissible uses

Section 15.5 Permissible uses

Section 15.6 Open for Consideration Uses

Section 15.10.14 To protect and provide for institutional and community uses.

Section 17.2.3 Public open Space – All Development

Section 17.9 Standards for Residential Accommodation

(Copies of the above extracts are in the appendix attached to this report.)

8.0 ASSESSMENT

I have examined all the plans, particulars and documentation on file. I have carried out a site inspection. I have had regard to relevant provisions of the statutory development plan for the area. I have had regard to the two previous appeals in relation to this site: PL 29N.238232 and PL 29N.244588. In my opinion the main issues arising are:

- Reason No. 1 of PL 29N.244588 and the Z15 zoning
- Reason No. 2 of PL 29N.244588 and Block B / visual amenities / residential amenities / Sybil Hill House (protected structure)
- Demolition of the western wall of the Walled Garden
- Access/Traffic
- Overlooking

- Overshadowing and Access to daylight
- Open Space Provision on Site
- Appropriate Assessment

In considering this assessment, given the planning history pertaining to the site, I am mindful of section 7.14 'Reasons for refusal of planning permission' as contained within 'Development Management Guidelines for Planning Authorities' (DoEHLG June 2007) which states, *inter alia*, the following:

"Section 34(10) of the Planning Act requires that a decision (and the notification of the decision) shall state the main reasons and considerations on which the decision is based. This is of fundamental importance to applicants so that they can assess options open to them as a consequence of the refusal. Reasons for refusal should therefore be clear and unambiguous, as informative and helpful as possible, should be self-contained statements, and should be related specifically to the particular development proposal. All substantial reasons for refusal should be stated since it is in the interest of prospective developers to be aware of all the fundamental objections to their proposals if they are considering whether to amend the scheme and re-lodge or to appeal. It is essential to avoid a situation where some fundamental reason for refusal is not given and the subsequent amended application is refused for that reason. Also, as stated in para. 6.8 information deficits should be referred to in the planning decision so that the applicant is made aware that there could be further obstacles to the grant of permission other than the reasons listed."

Reason No. 1 of PL 29N.244588 and the Z15 zoning

The land use zoning objective Z15 has been central to the Board's previous refusals on this site in both PL 29N.238232 and PL 29N.244588. This Z15 zoning is again central to all of the third party appeals and the observer submissions on the current appeal. The appellants and observers citing, *inter alia*, those previous refusals hold that there has been no material change to warrant a reversal of those decisions. It appears that attempts to change the zoning from Z15 to Z1 on the site were rejected by the elected members of the authority.

In Reason No. 1 of the Board's first refusal on the site, PL 29N.238232, it specifically refused on the grounds that the then Z15 zoning did not include 'residential' use in either the 'permissible' use category or in the 'open for consideration' use category in the Dublin City Development Plan 2011-2017 and thus, it concluded, the proposed development would materially contravene the Z15 zoning objective. That decision was made on the 11/05/2011. Subsequent to that decision, changes to the CDP were implemented following a High Court judgement in 2012 relating to the Z15 zoning on institutional lands. The subsequent changes adopted in 2013 allow for 'residential' use on Z15 lands to be 'open for consideration'. It should be

noted that the 2010 application that was subject of PL 29N.238232 was accompanied by a masterplan.

In Reason No. 1 of the second application made in 2014, subject of PL 29N.244588, the Board refused again in relation to the Z15 zoning but specifically referred to the absence of an overall masterplan for the Z15 lands in its decision. Unlike the previous 2010 application, the 2014 application did not include a masterplan, the applicant argued at that stage that a masterplan was unwarranted.

The current application again includes a masterplan, but it is not the same masterplan that accompanied the 2010 application. The current masterplan is contained within Appendix 3 of the Planning Report on the current application. It covers the Z15 lands on the eastern side of Sybil Hill Road made up of a number of parcels of land as follows: the site subject of this application owned by MKN Developments Ltd.; the lands containing Sybil Hill House (a protected structure) and St. Paul's College to its south, both owned (or held in trust) by the Vincentians; and lands to the east of Sybil Hill House and the college acquired in 2015 from the Vincentians by New Generation Homes Ltd. and which is currently the subject of an application ref: 4185/15. That application to the p.a. also contains the subject masterplan as part of its application.

The Z15 zoning objective, and its specific requirements, are critical to this application, in my opinion. The Z15 objective has a number of requirements when it comes to residential uses (an 'open for consideration' use) being proposed on such lands where the primary land use intention is the protection and provision for institutional and community uses. The Z15 zoning, as indicated under s.15.10.14 of the statutory CDP, requires the following to be demonstrated:

- How the proposal is in accordance with and assists in securing the aims of the zoning objective;
- How it secures the retention of the main institutional and community uses on the lands, including space for any necessary expansion of such uses;
- How it secures the retention of existing functional open space e.g. school playing fields; and
- The manner in which the nature and scale of the proposal integrates with the surrounding lands zoned Z15.

I note that the Inspector in the previous application, PL 29N.244588, considered the applicant's response to the above requirements to be inadequate. The Inspector went on to recommend refusal for three reasons, Reason No. 1 related to the absence of a masterplan resulting in the piecemeal and random development of the Z15 zoned area. The Board subsequently refused for two reasons and its Reason No. 1 was similar to that recommended by the reporting Inspector.

I am of the opinion that the applicant has sought to take on board that previous refusal Reason No. 1. As stated previously, the applicant has submitted a masterplan, as has the applicant in relation to the current application, ref: 4185/15, relating to the former Vincentian lands to the east and part of the Z15 zoned area.

The masterplan looks at the development proposals for all four parcels of land in the Z15 zoned area east of Sybil Hill Road and not just the current appeal site. It seeks to address the four requirements listed in s.15.10.14 (reproduced above). The masterplan seeks to demonstrate that there is no longer a need for the extent of land that is currently dedicated to institutional and community use on the Z15 lands. That institution use, being educational, will continue on part of the Z15 lands to the south of the application site. However, I am of the opinion that the masterplan would have benefited from more detail. Critically, the p.a. itself has raised a number of queries in relation to the masterplan in the context of the current application 4185/15. This will be further addressed below.

Another significant issue for consideration in this application that was absent in the previous one, are the letters on file from the Department of Education and Skills. This issue was raised by the p.a. in the previous application and was also referred to in the Inspector's Report on that application, PL 29N.244588, at page 23 where it stated, *inter alia*, the following:

"...The applicant was clearly requested under point 1 of the Further Information request to liaise with the Dept of Education and Skills regarding future expansion needs. This request was clearly not complied with rather the Vincentians viewpoint that refers to the drop in student numbers and the existing spare capacity at present in the School was referred to. In my view, this does not address the question. One would reasonably deduce that the Department of Education and Skills have clearly the remit for forecasting models of need and future need for educational requirements within the City area. The Dept is the only authority that is equipped to balance the projected collective future educational needs of the city and consequently any given area therein, accounting for demographic profile, catchment areas, commuter patterns etc...."

In the current application there are two letters from the Department of Education and Skills. In a response to the grounds of appeal, received on the 14/04/16, the applicant submitted copies of two letters from the Department of Education and Skills, one addressed to the p.a. and one addressed to the planning agent who prepared the masterplan (both dated 13/01/16). The letter to the planning agent states, *inter alia*, the following:

"...With reference to the development of lands at St. Paul's Secondary School, the Department of Education and Skills has carried out an analysis of the future figures and in consultation with a number of sections in the Department we are satisfied that the development at St. Paul's will not adversely affect our future projections. When

considering the educational implications we included the increase demand due to the development at St. Paul's, both at primary and post primary level. Based on this the Department has no objections to this development and have conveyed this to Dublin City Council..."

The other letter from the Department of Education and Skills addressed to the p.a. and referring to the application on lands on the eastern side of the Z15 zoned area, ref: 4185/15, states that the Department has no objection to make. I consider these letters from the Department of Education and Skills to be significant in determining compliance, or otherwise, with the Z15 zoning and s.15.10.14 of the CDP. Notwithstanding reference on file to the existing school being oversubscribed for the academic year 2016/2017, the two significant stakeholders in the delivery of the educational institutional use on the Z15 zoned lands - the Vincentian Order and the Department of Education and Skills - have both indicated that the lands are not required for this use.

However, as referred to above, the current application on Z15 lands to the east of the application site, and which also forms a substantial part of the Z15 zoned area that is subject of the masterplan, is subject of a detailed and extensive request for further information by the p.a. Section 15.10.14 of the CDP indicates that the masterplan should demonstrate how the requirements of the CDP in relation to the Z15 zoning are satisfied, I am not convinced that the masterplan as submitted has met this requirement for the entire Z15 zoned area east of Sybil Hill Road. A copy of the extensive p.a. FI request on 4185/15 is in the attached appendix (downloaded from the p.a. website). That FI request raises queries in relation to, *inter alia*: deficiencies in the masterplan; green linkages; school capacity; community infrastructure statement; loss of existing sports facilities on that site, and public open space provision. All of these issues are directly relevant to the appeal currently before the Board, in my opinion. These two sites form a substantial part of the Z15 zoned area, they are connected via the Sybil Hill House site, they are both subject to s. 15.10.14 of the CDP, and they are/were both functionally linked to the educational institutional use which the Z15 zoning seeks to protect as a priority. If it is ultimately determined (either by the p.a. or the Board on appeal) that the masterplan as submitted on that 4185/15 site is unacceptable, then it has consequences for the entire Z15 zoned area in terms of compliance with the CDP. I am of the opinion that these two current applications can not stand in isolation from one another, either the one masterplan is acceptable for all the Z15 area or it is unacceptable for all of that area. Clearly, based on the FI request, the p.a. is not satisfied with a number of elements of that masterplan.

(In considering this residential use proposed on Z15 lands, I am aware that the Board granted permission in 2014 for a residential development on Z15 zoned lands within the grounds of Mount Argus church on the south side of Dublin city (ref: PL 29S.243181).

Having regard to, *inter alia*: the specific concern raised in Reason No. 1 of PL 29N.244588; the requirements of s.15.10.14 of the CDP concerning Z15 zoned lands; the submission of a masterplan with the application; the proposed continued educational institutional use on part of the Z15 zoned lands; the submissions on file from the Vincentian Order and, in particular, the letters on file from the Department of Education and Skills, I am of the opinion that Reason No. 1 of PL 29N.244588 may no longer pertain. However, there is a lack of detail in the masterplan, it raises a number of questions. The p.a. have sought a detailed request for FI on 4185/15, the response to that FI request has implications for the masterplan and, consequentially for compliance with the CDP and for this development before the Board. In that regard the development is considered premature pending the finalisation of a masterplan for the entire Z15 area that clearly demonstrates how the s.15.10.14 requirements are satisfied. I therefore would recommend refusal in relation to this specific issue. I note the p.a. website indicates that the decision date on 4185/15 has been extended to 10th November 2016.

Reason No. 2 of PL 29N.244588 and Block B / visual amenities / residential amenities / Sybil Hill House (protected structure)

There are effectively two parts to the Board's Reason No. 2 in PL 29N.244588. Both parts focus on Block B in particular. The first part relates to the scale, height and bulk of Block B and the associated impacts arising on the visual and residential amenities of properties in the vicinity. The second part relates to the scale and massing of this Block B with consequential impact on Sybil Hill House which is a protected structure.

The applicant has changed the design of the subject Block B from that previously proposed. The footprint of Block B has been reduced from that previously proposed (although I do note that Block A now occupies part of the site where part of Block B was previously proposed). Block B in PL 29N.244588 was over 53 metres long where it faced onto the Sybil Hill House site to the south, it was 5 storeys at its western end reducing to 4 storeys and then 3 storeys towards its eastern end. In the current application Block B is c. 35 m long where it faces onto the Sybil Hill House site. In addition to reducing the footprint, the height and overall scale of this building has been reduced. This block is now predominately 3 storeys high with just one 4 storey element located at its western end, a remove from the predominately 2-storey residential development to the east known as 'The Meadows'. This 4 storey element is also a remove from Sybil Hill House, the protected structure to the south-east of the block specifically mentioned in Reason No. 2 of PL 29N.244588. There is then a gap of over 5 metres between Block B and Block A, this further reduces the scale and massing of the proposed development when viewed from the south. The scale, massing and height of Block B as now proposed reflects, and has due regard to, the scale, massing and height as established by the protected structure to the south-east and 'The Meadows' residential scheme to the east. I cannot find that this Block B

as now proposed adversely impacts on the visual or residential amenities of 'The Meadows' to its east. The scale and height of the overall development for this site reduces from west adjacent Sybil Hill Road (where it is 5 storeys at its highest) to 'The Meadows' in the east where Block C is 2 storeys and Block B is predominately 3 storeys.

Given the separation distances between Block B and Sybil Hill House, and also having regard to the reduction in the scale, massing and height of Block B from that previously proposed, I am of the opinion that the character and setting of Sybil Hill House is not adversely impacted upon by the proposed development. It will be clearly visible from within the Sybil Hill House site, but the modern school buildings to the south of the house are already an established feature within the setting of that house, they are actually to the foreground of the house as the entrance to the protected structure faces the school. The modern St. Paul's College is approximately the same distance from the protected structure as the proposed Block B and not of a wholly dissimilar scale, albeit located on lower ground than the house. I also note the southernmost dwelling in the neighbouring residential scheme of The Meadows is c. 15 m from the protected structure, whereas Block B is c. 47 m away. There is a report on file submitted by the applicant titled '*Assessment of the Visual Impact on Sybil Hill House*' (prepared by W.H. Hastings, Conservation Architect, ARC Consultants). That report concludes stating that the visual impact on the protected structure is likely to range from none, to 'slight', to 'moderate', depending on where the viewer is located, I concur with that assessment.

Block A that fronts onto Sybil Hill Road varies in height from 5 storeys at its southern end, to 4 storeys in its middle, and then 3 storeys at its northern end. While I accept that the nursing home across the road to the southwest of the site is set back from the public road as referred to by some of the appellants and observers, nevertheless, that is a predominately 4/5 storey structure and a much larger complex than the proposed development. It has a strong visual presence along this road. While the Board did cite scale, height and proximity of the development to Sybil Hill Road in the first appeal (PL 29N.238232), it did not maintain this reason for refusal in the second appeal, presumably taking into account the reduction in scale and height of the proposal at that stage. The scale and height of Block A in the current proposal is similar to that in the last previous application, elevational changes now also proposed further appropriately address the scale of the proposal where it fronts onto Sybil Hill Road, in my opinion.

Having regard to the foregoing, I am of the opinion that Reason No. 2 of PL 29N.244488 no longer pertains. I do not consider that the proposed development would be visually obtrusive or out of character with the established pattern of development in the area, nor does it seriously injure the visual or residential amenities of property in the vicinity. I do not consider that the character or setting of Sybil Hill House would be adversely impacted upon

by the proposal given the changes to the scale, massing and height as now proposed and also having regard to the modern interventions that already exist within the context of the setting of that protected structure.

Demolition of the western wall of the Walled Garden

The application site substantially consists of a walled garden associated with the protected structure to the south, Sybil Hill House. The surviving walls are located to the west, north and east of the former walled garden, it appears the original south wall has not survived (ref: report on file titled '*Architectural/Historical Assessment of Boundary Walls*' by D.Slattery, Historic Buildings Consultants, Dec. 2015). The current proposal, as with the two previous proposals, entails the demolition of the western part of the remains of the walled garden. The appellants and observers have raised concerns about the loss of this western wall and its impact on the architectural heritage of the area.

There are no reports on the current file from the p.a. Conservation Officer. However, there are two reports from the p.a. Conservation Officer on PL 29N.244588. The first CO report, dated 05/11/2014, recommended a request for further information, including a request in relation to the walled garden. The second CO report, dated 03/03/2015, having reviewed the applicant's response in relation to architectural heritage matters, including a response in relation to the walled garden, recommend a grant of permission with conditions.

I note section 11.4.2 of the Inspector's Report on the first appeal, PL 29N.238232, in relation to the impact on this wall. It was subject of discussion at the Oral Hearing held into that appeal. I also note section 15.3 of the Inspector's Report on the second appeal PL 29N.244588 in relation to the impact on the remains of the walled garden. In both of those previous appeals the Inspectors recommended refusal in relation to impact on the character of the associated protected structure and non-compliance with policy FC30 brought about by the demolition of the wall.

I share the concerns somewhat in relation to the loss of this western wall. However, some of the appellants and observers have erred in stating that the Board previously refused permission in relation to the demolition of the western wall. While the Inspectors did recommend refusal in relation to the loss of this wall, the Board did not cite loss of the western wall in any of the reasons for refusal in either of the previous decisions on the site. As the current proposals in relation to the western wall are the same as those previously proposed, and the Board did not cite the loss of this western wall in its previous decisions, it may be considered *res judicata*. Having regard to s.7.14 of the '*Development Management Guidelines for Planning Authorities*' (DoEHLG June 2007) referred to previously in this assessment, I would not recommend refusal in relation to the demolition of the western wall.

Access/Traffic

There are 4 existing access points to the site off Sybil Hill Road, these will be rationalised into one main access point to a ramped entrance to a basement car park accommodating 105 car parking spaces and parking for 120 bicycles. There will be a secondary entrance to the development for the fire service, this entrance will also accommodate a pedestrian entrance to the development.

Third parties and observers have raised concerns about traffic safety, trip generation, overspill car parking and public transportation services in the area. Many of these issues were raised in the two previous appeals on the site.

I have considered the section titled '*Access/Traffic*' in the Inspector's Report on PL 29N.244588 and section 11.3 '*Public Transport, Access & Parking*' of the Inspector's Report on PL 29N.238232. As the number of residential units proposed was greater in both of those previous applications, the trip generation arising from the current proposal would be less than those two previous applications. Neither Inspector in those two previous appeals recommended refusal on traffic related matters. The Board did not refuse permission for either of those two applications on traffic or access related matters. The layout and access proposals in the current application are very similar to those proposed under PL 29N.244588.

I have also considered the report titled '*Traffic Appraisal Report, Residential Development, Sybil Hill Road, Raheny, Dublin 5*' by ORS Consulting Engineers. That report concludes, *inter alia*, that the proposed development is located in an area with excellent public transport connectivity including high frequency bus and rail routes located within walking distance of the site and that traffic generated by the proposed development would be low. I find the conclusions of that report to be reasonable and robust.

There is a 'Roads & Traffic Planning Division Report' (dated 05/02/2016) on file from the p.a. That report assesses: public transport accessibility; site access proposals; car parking provision; bicycle parking provision; trip generation, and trip distribution. That report states that the vehicle traffic flows would be well within the capacity of the local road network, including the Sybil Hill Road/Howth Road junction. It also states that in terms of public transport the site is strategically located and is well served by high quality existing public transport. The car parking provision and the bicycle parking provision complies with the CDP. The RTPD Report indicates no objection subject to conditions.

Having regard to the foregoing, I would not recommend that permission should be refused on access or traffic related matters. I do not consider that

the proposed development poses an unacceptable risk to traffic or pedestrian safety.

Overlooking

Concerns have been raised in relation to potential overlooking of adjacent properties. Similar concerns were raised in the previous appeals.

Block C is a terrace of 8 no. 2 storey dwellings proposed in the north east section of the site. To the east and north of this proposed block The Meadows residential development is located. It consists of detached two storey dwellings in a suburban cul-de-sac layout.

The layout and design of the proposed Block C adjacent this existing residential scheme has not changed from the previous appeal, PL 29N.244588. The proposed back-to-back separation distances between the proposed terrace and the two-storey dwellings in The Meadows exceed the standard 22 m separation distance in all cases, in some instances the separation distance proposed greatly exceeds the 22 m standard. I note the Board did not refuse permission on the grounds of overlooking in PL 29N.244588. The angled window and walls proposed to a number of units at the eastern end of proposed Block B as indicated in the plans on file mitigates potential overlooking of The Meadows, again, this is a similar arrangement to that previously proposed and I note the Inspector in PL 29N.244588 and the Board considered this an acceptable mitigation. I note also the proposal on the plans submitted to provide screening to the external access decking at the northern end of Block A to obviate potential overlooking of 'The Kare Centre' and the rear garden of No. 27 The Meadows, both located to the north of this Block A. In considering potential overlooking I am also aware of Condition No. 4 of the p.a. decision and would recommend similar condition should the Board be disposed to a grant of permission.

The southern elevations of both Blocks A and B will overlook the lands adjoining to the south. However, these lands are associated with Sybil Hill House and are indicated as remaining open space in the masterplan on file based on the following comments: "*The existing open aspect to the Sybil Hill Road will not be reduced and will be increased at the location of the new entrances to proposed developments (p. 14)...The curtilage of the protected structure is taken to extend to...the grounds fronting the house extending to the Sybil Hill Road frontage (p.14)*" and "*The nature and extent of the uses proposed in this Masterplan include retention of the Vincentian Provinciate religious institution in Sybil Hill House and its retained curtilage (p. 15)*". There are letters on file from the Vincentians indicating support for the proposed development, they have not raised any concerns in relation to the potential of overlooking of the open space to the front of Sybil Hill House.

Having regard to the forgoing I am of the opinion that the proposed development would not adversely impact upon adjacent properties by reason of overlooking.

Overshadowing and Access to daylight

The applicant submitted a '*Sunlight and Daylight Access Impact Analysis*'. That report includes shadow studies on the adjoining properties arising from the proposed development. The analysis concludes that in relation to overshadowing of adjoining properties the predicted impact on sunlight access to adjacent properties will be relatively minor, shadows cast by the proposed development will not interfere with the ability of any residence to achieve an adequate level of sunlight access throughout the year within the meaning of the British Standard, *BS 8206-2:2008* or the BRE's *Site layout planning for daylight and sunlight*. The analysis also concludes that the scale of the proposed development and the distance between proposed buildings and existing houses removes the potential for undue adverse impacts on daylight access within rooms facing towards the application site. I also note that the Inspector in PL 29N.244588 stated that she did not consider that the dwellings from 18 to 26 The Meadows would be significantly adversely impacted by overshadowing arising, I would concur. The Board did not refuse permission in PL 29N.244588 in relation to overshadowing. I would not recommend refusal in relation to these matters.

House 8 in Block C

I have concerns that the northern most dwelling in the proposed terrace of 8 dwellings that form Block C will have an overbearing impact on No. 27 The Meadows located to its immediate north. The top of the boundary wall to be retained at this location is indicated at up to approximately first floor level of proposed House 8 on the submitted elevations, but this existing wall adjacent No. 27 The Meadows is up near the eaves level of that dwelling. The Inspector in PL 29N.244588 also shared this concern about the overbearing impact on No. 27 The Meadows. However, I do not consider that this matter warrants the refusal of permission for the entire development. I am of the opinion that this matter can be addressed by way of condition should the Board be disposed to a grant of permission. I would recommend that House 8 be omitted by way of condition. This area could be dedicated to private open space serving proposed House No. 7, or alternatively, an application for a single storey dwelling at this location at some stage in the future could be considered.

Open Space Provision on Site

Condition No. 13 of the p.a. decision sought a financial contribution pursuant to s. 48(2) (c) of the P & D Act 2000 in respect of open space provision on

site. A number of appellants and observers have objected to this and hold that the open space requirements of the CDP should be provided on site.

In the applicant's Planning Report submitted with the application it is acknowledged that the Z15 zoning requires 25% open space and/or community facilities (ref: p. 12). However, the applicant holds that considering the location of the application site and the limited scale of development proposed it would be inappropriate in this instance to provide 25% open space on the site. The applicant does point out that some communal open space is provided at ground level on site and also at roof level in Block A, a community/café facility, and a crèche, are also proposed at ground floor level in Block A. The applicant went on to indicate that the shortfall in the 25% provision could be addressed by way of a financial contribution in lieu of open space provision citing section 17.2.3 of the CDP. In the p.a. Planner's Report on file (dated 18/02/2016) the applicant's proposals in relation to open space and community facilities are considered. However, that report goes on to indicate that the applicant does not address the 10% usable public open space required for a residential scheme and recommended a financial contribution in lieu.

There is report on file from the Parks & Landscape Services of the p.a. (dated 15/02/2016). That report states, inter alia: "*The provision of public open space is not required due to the proximity and accessibility of St. Anne's Park, which is located within walking distance of the application site as well as the application site being too small and inappropriate for public open space. A financial contribution in lieu of the provision of all public open space is therefore preferable...*" In a response to the grounds of appeal the p.a. submitted a further report (dated April 2016) from the Parks & Landscape Services which outlines how the financial contributions in lieu of public open space will go towards specific actions under the three management policies for St. Anne's Park.

In the two previous appeals on the site both Inspectors indicated that the proposals for a contribution in lieu of open space provision were reasonable. The Board did not cite on-site open space provision in its reasons for refusal on either case.

Having regard to the foregoing, and having regard to the contents of the masterplan and also having regard to the proximity of St. Anne's Park to the site, I would not recommend refusal in relation to on-site communal open space provision and would recommend that a contribution be sought in lieu.

Appropriate Assessment

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise.

Other issues

The site coverage and plot ratio does not conflict with the CDP guidance on such matters. The density proposed is acceptable in my opinion, as stated previously this site is well located in terms of access to sustainable modes of transport e.g. proximity to 2 DART stations, QBCs, cycle routes. It is adjacent two schools and adjacent the largest urban park under the control of DCC (St. Anne's). The sizes and layout of the residential units proposed comply with DCC and national guidance on such matters.

9.0 CONCLUSIONS AND RECOMMENDATION

I recommend that permission be refused for one reason as indicated below.

REASONS AND CONSIDERATIONS

Development of the kind proposed would be premature pending the finalisation of a masterplan for the entire Z15 zoned area east of Sybil Hill Road having regard to this land use zoning objective for the area and the provisions of section 15.10.14 of the Dublin City Development Plan 2011-2017 (as varied). The Board notes the submission of a masterplan in relation to the proposed development and the entire Z15 zoned lands east of Sybil Hill Road but considers that the masterplan fails to clearly demonstrate how the requirements of section 15.10.14 are satisfied. The Board notes an application, planning reg. ref: 4185/15, for development on the lands zoned Z15 which is subject of the same masterplan and which is currently subject of a request for further information by the planning authority for the area. In that regard, the proposed development would be premature pending the finalisation of the masterplan which clearly demonstrates how the provisions of section 15.10.14 of the entire Z15 zoned lands, and not just the application site, are satisfied. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Tom Rabbette
Senior Planning Inspector
21st June 2016