



An
Bord
Pleanála

Inspector's Report ABP-306058-19.

Development

Permission for the construction of a Nursing Care Home specialising in Alzheimer's Care, rehabilitation, convalescence and palliative care together with all associated site works and services.

Location

Limetree Avenue, Portmarnock, Co. Dublin.

Planning Authority

Fingal County Council.

Planning Authority Reg. Ref.

F19A/0421.

Applicant(s)

Primemount Fc Ltd.

Type of Application

Planning permission.

Planning Authority Decision

Grant with conditions

Type of Appeal

Third Party.

Appellant(s)

1. St. Helen's Senior & Junior NS.
2. Dal Riada Action Group.

Observer(s)

None.

Date of Site Inspection

6th day of February, 2020.

Inspector

Patricia-Marie Young.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations:.....	7
4.0 Planning History.....	7
5.0 Policy & Context	8
5.1. National.....	8
5.2. Development Plan.....	9
5.3. Natural Heritage Designations	10
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Applicant Response	15
7.0 Assessment.....	18
8.0 Recommendation.....	36
9.0 Reasons and Considerations.....	36
10.0 Conditions	37

1.0 Site Location and Description

- 1.1. The roughly rectangular shaped appeal site has a stated area of 1.1ha and it is situated on Limetree Avenue, c138m to the east of its intersection with Onward Walk and c200m to the west of its intersection with Briar's Walk, in a suburban area of Portmarnock known as 'Robswall', in north county Dublin.
- 1.2. The site benefits from road frontage and an existing entrance onto the northern side of Limetree Avenue. It is also bound by an access road on its western side that provides connection via a cul-de-sac road to St. Helens Junior School. On its eastern side it bounds a large area of public open space (referred to in the documents attached as 'Robswall Park'/'Paddy's Hill') with the boundary in between the two containing mature dense hedge planting and trees of various species.
- 1.3. On the opposite side of Limetree Avenue there are mature 2-storey mainly semi-detached properties. On the eastern side of the road serving St. Helens Junior School is a residential scheme known as Dal Riada. This residential scheme is characterised by 2-storey detached dwellings.
- 1.4. In addition, the lands to the south, west and south east are characterised by similar residential developments as are the lands to the east of neighbouring the aforementioned adjoining public open space.
- 1.5. The site at the time of inspection consisted of two distinct areas with the area facing onto Limetree Avenue mainly comprised of hardstand which appeared to have been used at some recent point in time as an area of car parking. The northern portion of the site behind the hardstand is comprised of unkempt mainly green land with a number of mature trees present. The southern boundary of the site benefits from an existing entrance onto Limetree Avenue which at this point is also called 'Radlett Grove'.
- 1.6. The site has a gradual change of level with the ground levels across the site rising from its roadside boundary with Limetree Avenue (Note: 28.9 OD) to the northern boundary of the site which adjoins St. Helen's N.S (Note: 33.0 OD). The surrounding public road network is subject to the posted speed limit of 50kph with calming measures in the vicinity of St. Helen's National School. The western and southern

boundaries of the site adjoin public footpaths. These are of restricted width and variable quality.

- 1.7. According to available information the subject site was last used as a place of worship containing a modest sized building, associated car parking and grounds.
- 1.8. Photographs taken during my inspection of the site are attached.

2.0 Proposed Development

2.1. Planning permission is sought for a development consisting of the construction of a Nursing Care Home specialising in Alzheimer's Care, rehabilitation, convalescence and palliative care. The building will be 3-storeys in height and approximately 9,742 sq.m. gross floor area (GFA). The development will include: an upgraded vehicular access off Limetree Avenue; 38 no. car parking spaces (including 4 no. disabled spaces); 20 no. covered bicycle parking stands; landscaped open space of approximately 3,874 sq.m.; the installation of a footpath and green verge along Limetree Avenue to the front of the site to continue east of the site across open space to the existing access to Paddy Hill's green space and Portmarnock AFC; and all associated works all over an application site area of 11,018 sq.m.

2.2. This application is accompanied by:

- Design Statement.
- Transport Assessment.
- Engineering Documentation.
- Tree Survey, Tree Retention and Tree Removal Plan.
- An Arboricultural Assessment.
- Appropriate Assessment Screening.
- Landscaping Plan and Landscape Strategy Report.
- Visual Impact Assessment.
- Planning Compliance Report.
- Letter of consent from Fingal County Councils for the inclusion of lands in their ownership.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to **grant** permission for the proposed development subject to 17 no. conditions including but not limited to the following:

- Condition No. 2(a):** Restricts number of single occupancy rooms to 151.
- Condition No. 2(b):** Requirements during construction phase for traffic to avoid conflict with St. Helens School.
- Condition No. 3:** Restrictions during operational phase of the nursing home.
- Condition No. 6(a):** Restricts the signage.
- Condition No. 6(b):** Restricts Music and Amplified Sound.
- Condition No. 8 & 11:** Landscaping requirements.
- Condition No. 9:** Implementation of Arborists recommendations.
- Condition No. 10:** Tree Bond.
- Condition No. 14& 15:** Sets out Environmental Health Officer's requirements.

Also, of note the decision notification is accompanied by 'Advisory Note 1' which reiterates Section 34(13) of the Planning and Development Act, 2000, as amended; and, 'Advisory Note 2' which deals with the matter of encroachment/oversailing.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's report is the basis of the Planning Authority's decision. This report concluded that having regard to the zoning pertaining to the subject site, together with the proposed developments accordance with the policies and objectives of the Development Plan, that the proposed development, subject to conditions would not negatively impact on adjoining amenity.

3.2.2. Other Technical Reports

- **Water Services:** No objection, subject to recommended safeguards, including but not limited to the provision of permeable surfacing.

- **Parks & Green Infrastructure:** No objection, subject to recommended safeguards including the request for a tree bond condition in the event of a grant of planning permission.
- **Environmental Health Officer:** No objection, subject to recommendations.
- **Environmental Health, Air & Noise:** No objection, subject to conditions, including but not limited to a programme of noise and dust monitoring during the construction phase. It is also recommended that noise during normal operation of the proposed development shall not cause nuisance to sensitive receptors and sets out dB levels for daytime, evening and night-time that should not be exceeded.
- **Community, Culture and Sport:** No objection. I note to the Board that it is recommended that in addition to the four disabled car parking spaces shown in the submitted documentation that two-age friendly car parking spaces be provided.
- **Transportation Planning:** No objection. I note to the Board a number of conditions are recommended, including but not limited to the submission of a mobility management plan for their written approval.

3.3. Prescribed Bodies

- 3.3.1. **Irish Water:** No objection, subject to safeguards.

3.4. Third Party Observations:

- 3.4.1. Several 3rd Party Submissions received by the Planning Authority during the course of determination of the application. Having read these submissions I consider that the concerns raised correlate with those raised by the appellants in their grounds of appeal submission which I have summarised under Section 6.1 of this report below.

4.0 Planning History

4.1. Site

- **P.A. Reg. Ref. No. F14A/0331:** Planning permission was **granted** subject to conditions for a development consisting of the construction of a low-level plinth wall with railings over, incorporating vehicular entrance and a separate pedestrian

access gate along the southern boundary of the appeal site addressing Limetree Avenue.

4.2. **In the Vicinity: St. Helen's N.S. to the north of the appeal site.**

P.A. Reg. Ref. No. F17A/0228: Planning permission was **granted** subject to conditions for a development consisting of the construction of 2 No. Classrooms with ancillary facilities, a covered walkway together with all associated site works.

P.A. Reg. Ref. No. F14A/0073: Planning permission was **granted** subject to conditions for a development consisting of extension and alterations of existing school building including changes to elevations and new internal layout; provide new single storey ASD extension and new single storey one classroom extension together with all associated site works.

5.0 **Policy & Context**

5.1. **National**

5.1.1. The following policy documents are relevant to the proposed development:

- Project Ireland 2040 – National Planning Framework, (2018).
- Sustainable Urban Housing: Design Standards for New Apartments, (2018).
- Urban Development and Building Heights, Guidelines for Planning Authorities, 2018.
- National Standards for Residential Care Settings for Older People in Ireland, (2016).
- Design Manual for Urban Roads and Streets, (2013).
- Sustainable Urban Residential Development, (2009).
- Urban Design Manual – A Best Practice Guide, (2009).
- National Quality Standards for Residential Care Settings for Older People in Ireland, 2009.
- HSE Estates – Sustainable Building Guidelines – Specification, design, construction & refurbishment of health care buildings.

5.2. Development Plan

5.2.1. The Fingal Development Plan, 2017 to 2023, is the current development plan for the area. The site is zoned objective 'C1' under the said plan which seeks to *"provide for and protect civic, religious, community, education, health care and social infrastructure"*.

5.2.2. Chapter 3 of the Development Plan deals with the matter of community infrastructure, facilities and services. Section 3.6 states that: *"the provision of good community facilities and services, such as education, training, libraries, childcare facilities, places of worship, health and community centres, in appropriate accessible locations is important as they contribute positively to an enhanced quality of life. The Regional Planning Guidelines require Planning Authorities to adopt objectives that facilitate the social, community and cultural needs of all persons and communities through the provision of well dispersed and easily accessible social and community infrastructure"*. It also states that: *"generally it is beneficial for facilities to be clustered together within, or adjacent to a town, village or local centre. Clustering can also help to improve their viability as well as making them more convenient and accessible by public transport, walking and cycling"*. It includes the following objectives:

Objective PM66: Requires the provision of accessible, adequate and diverse community facilities and services in new and established areas.

Objective PM68: Promotes the clustering of community, recreational and open space facilities being located in local centres or combined with school facilities as appropriate.

Objective PM69: Seeks that proposals do not have a detrimental effect on local amenity's by way of traffic, noise or loss of privacy for adjacent residents.

5.2.3. Objectives applicable to Nursing Home type developments as set out in the Development Plan include:

Objective PM48 & DMS46: Requires that residential care homes, retirement homes, nursing homes, retirement villages and sheltered accommodation be located in towns and villages for reasons of sustainability, accessibility, social inclusion, and proximity to the availability of services, except where a demonstrated need to locate in a rural environment because of the nature of the care required can be clearly established.

Objective PM49: Consideration should be had to the existing (and anticipated) character of the area in which a proposed residential care home, retirement home, nursing home or sheltered accommodation is to be located and the compatibility of the use to such an area.

Objective DMS47: Requires that applications for residential care homes, retirement homes, nursing homes, retirement villages and sheltered accommodation to consider and demonstrate the following:

- The potential impact on residential amenities of adjoining properties.
- Adequate provision of open space.
- Provision of adequate parking facilities.
- The design and proposed materials.
- The size and scale of the proposal must be appropriate to the area.
- A location within close proximity of high-quality public transport links and the site should be well served by good footpath links.

Objective DMS48: Indicates that a reduction in open space standard is acceptable where other suitable open space is available.

- 5.2.4. Table 12.8 of the Development Plan sets out the Car parking Standards for 'Nursing Homes' at 1 space per 4 bedrooms.

5.3. Natural Heritage Designations

- 5.3.1. There are several European sites within a 15km radius of the appeal site. The nearest are Malahide Estuary SAC (Site Code: 000205) which is located c838meters to the east of the site; Malahide Estuary SPA (Site Code: 004025) which is located c862m to the north east of the site; Baldoyle Bay SAC (Site Code: 000199) which is located c1.9km to the south of the site; and, Baldoyle Bay SPA (Site Code: 004016) which is located c1.98km to the south of the site.

5.4. Environmental Impact Assessment

- 5.4.1. Having regard to the serviced nature of the site; nature and scale of the proposed development; the nature of the receiving environment; the lack of any connectivity between this brownfield site and European sites in the vicinity as well as within a wider

15km radius; I consider that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Board received 2 no. 3rd Party from:

- St. Helen's Senior & Junior National School
- Dal Riada Action Group

The issues raised in both submissions are similar. I have therefore propose to summarise them collectively under a number of broad headings as follows:

Location

- The location of this large specialist nursing home in an outer residential suburb, approximately 2km from the DART station; remote from required town and village facilities; and, in a low rise, medium density residential district, must be considered an inappropriate development due to its height, scale and lack of car parking spaces. This location is not appropriate for a nursing home of the type and scale proposed.
- This site does not meet the underlying Development Plan requirements for a nursing home, i.e. it is not close to shops, churches, community facilities, it is not accessible for visitors, staff or servicing.

Land Use

- A nursing home at this location is not objected too, however, it is considered that the one proposed under this application is excessive and it would give rise to significant injury to the established amenity of this area in many ways including but not limited to adding to road safety and traffic hazard issues in this locality.
- The proposed development cannot be considered the same as a generic nursing home.

Residential Amenity Impact

- The proposed development would give rise to adverse residential amenity impact by way of overlooking, overshadowing and overbearing.

Amenity Impact on the Adjoining School and Open Space

- The proposed development, if permitted, would give rise to overshadowing and overbearing on the adjoining school premises, which is highlighted as a single storey building, and the adjoining open space.

Car Parking

- The proposed facility will have 151 rooms for residents, and it is contended would have a staff of 120 full time equivalents at a location where the closest mass transport node, i.e. a Dart station is over 2.5km away. The provision of 38 car parking spaces is inadequate and the lack of adequate car parking provision will result in adverse impact on the surrounding road network alongside cause a road safety issues, particularly for the 688 children attending St. Helens School.
- Reference is made to the different car parking requirements of other local authority's which is contended to be generally higher than that provided for under Fingal's Development Plan.
- As the proposed facility will specialise in Alzheimer's care, rehabilitation, convalescence and palliative care it will result in it having a larger catchment area that will extend outside of Portmarnock and Fingal. It is therefore probable that the primary mode of transport will be the car for visitors, residents and staff.
- The proposed nursing home would result in adverse traffic impacts 7 days a week.
- There is already an issue with commuters using this locality for car parking.

Compliance with Development Plan

- Reference is made to the provisions set out in the Development Plan for nursing homes. In this regard, particular reference is made to that in considering such applications the Development Plan indicates that likely effect on the character of the area and neighbouring properties shall be taken into account.
- It is argued that the proposed development is not compatible with the residentially zoned and open space zoned area that surrounds it.

- The proposed development by virtue of its design, scale and height relative to the boundaries of residentially zoned land, if permitted, would materially contravene the objectives and policies for residential areas as set out in the Development Plan.
- Reference is made to the transitional character of land at this location.

Visual Impact

- The proposed development would adversely impact on the visual character of the area.
- The proposed building would be visually overbearing and intrusive in its setting due to its out of character scale, bulk and height.
- The removal of most of the trees on the boundary of the site is considered to be a mistake in the design resolution put forward and would be contrary to protecting biodiversity alongside would result in the loss of a natural boundary that provides screening. Therefore, should the Board be minded to grant permission it is requested that the Board seek to retain particularly favourable trees on the boundaries of Dal Riada, the public open space and St. Helens N.S. In addition, reference is made to Objective LC08 which prohibits proposals removing extensive amounts of trees, hedgerows etc. It is considered that the design approach is contrary to this objective.
- A 2-storey development would have been more appropriate at this location.

Traffic Hazard

- The proposed development would give rise to adverse traffic impacts on the surrounding road network and give rise to road safety issues for road users, including vulnerable road users.
- The public road network in the vicinity already suffers from congestion.
- The traffic generated by the proposed development, if permitted, during construction through to when operational, will adversely impact on the health, safety and operation of St. Helen's School. Particular concern is raised for the safety of children entering and leaving the school. Should the Board be minded to grant permission it is requested that Condition No. 2 and 3 of the Planning Authority's notification to grant permission be imposed alongside robust measures for construction management. With the latter including mitigation measures and

arrangements to deal with potential nuisances including but not limited to noise, dust and other pollutants.

- Reference is made to the site being used as a car park prior to its purchase by the applicants. The loss of this area for car parking has had an adverse impact on the area.
- The construction of a nursing home will bring a considerable increase in vehicles into a residential area.
- The nearest train stations are Portmarnock and Malahide with these being 3.7km and 3.5km away respectively.

Open Space

- The open space provision is considered to be inadequate.
- The quantity of open space on this site should have been maximised.

Validation/Insufficient Information

- Insufficient information has been provided to make an informed decision on this application.
- It is considered that this is an invalid application. On this point reference is made to Article 23(1)(d) of the Planning and Development Regulations, 2001, as amended, which requires drawings of elevations of any proposed structure shall show the main features of any buildings which would be contiguous to it. This has not been done relative to properties in Dal Riada.
- Reference is made to Article 22 whereby the Planning Authority, or the Board, on appeal can request a scale model of the proposed development including land and buildings adjoining in the vicinity. It is considered that this should be sought in order to allow a proper assessment of this application.

Other

- The number of part time and casual staff has not been disclosed.
- This nursing home due to the scale proposed cannot be considered as a community facility and as it is not a community facility then it is essential that it should be in a more central location in easier reach of services, public transport and the like.

- Concerns are raised that the construction of the proposed development, if permitted, would give rise to several nuisances.
- Implications are raised in relation to the potential adverse impact of the proposed development, if permitted, on persons living within the immediate locality with existing health issues.

Conclusion

- The Board is requested to refuse planning permission for the proposed development.

6.2. Applicant Response

6.2.1. The applicant's response can be summarised as follows:

- No new issues have been raised in either of the two 3rd Party appeal submissions received by the Board. These issues have already been considered by the Planning Authority in their determination of this planning application.
- The proposed building is centrally located on site with generous setbacks from all four boundaries.
- The site benefits from a vehicular access and it is a brownfield site formerly occupied by a temporary church building.
- The proposed development is suitable for its situation.
- There are no registered nursing homes in Portmarnock or Malahide.
- Access to proportionate healthcare services is recognised in the National Planning Framework as an essential ingredient to successful urban places.
- Nursing home use is acceptable in principle on these lands under its land use zoning as set out in the Development Plan.
- Regard has been had to the amenities of the area in the design of the proposed scheme and it is not considered that any undue visual and/or residential amenity impacts would arise.
- The applicant is an experienced nursing home operator and has for over 10 years operated a similar facility next door to the Beneavin De La Salle boys' school in

Dublin 11. It is further contended that there have been huge benefits from the co-location of such uses with research carried out to support the same.

- The proposed facility has incorporated all the current best practice Irish and UK environmental and operational standards. These are also reflected in the internal and external design as well as layout of the proposed nursing home.
- This proposal accords with local and national planning policy provisions.
- The proposal provides the required standard of car parking spaces, the development is considered to be adequately served in terms of car parking and it is contended that when operational it would have a negligible impact on traffic levels in the area.
- 35% of the site (i.e. 3,840m²) will be provided as open space or 36% when footpaths are excluded. This is in excess of requirements. This space is accessible to all residents as well as visitors and it excludes vehicular parking areas, circulation areas through to the balcony at first floor level. It is contended that the design of the open space has been carefully considered with regard had to ecological impact assessment, including Appropriate Assessment Screening and the tree survey which were carried out by qualified and experienced specialists in these fields of expertise.
- The application as submitted complies with Articles 22 and 23 of the Planning & Development Regulations, 2001, as amended, and the provision of scale models would be excessive and unnecessary to provide with this application.
- The Visual Impact Assessment is based on actual topographical information.
- The site is not available for car parking and was not so at the time purchased or thereafter.
- The building has been purposefully setback from its site boundaries, regard was also had to the open space at adjoining the site to the east and the presence of an adjoining school.
- The nursing home is a facility to serve local residents and will therefore be a facility that would be immediately tied to the locality with the day rooms and café space available for use by community groups in the area on a timetable basis.

- The applicant is willing to comply with the requirements of Conditions No.s 2 and 3 of the Planning Authority's notification grant permission.
- Construction on site will be governed by the planning permission and health, safety and site management standards under statutes. In addition, the applicant has no objection to any required dust limitations.
- The scale of the nursing home would not be dominant in its setting.
- The plot ratio of the proposed development is 0.88 when footpaths are excluded from the site area and the site coverage is 30% when the proposed footpaths are excluded.
- A 3-storey building cannot be considered as a tall building in its 2-storey context.
- The description provided is an accurate representation of the proposed use of this nursing home building and the specialist care it will provide.
- It is contended that a UK survey found that over 80% of residents in nursing homes in the UK were suffering dementia.
- No evidence has been provided to substantiate a difference between a generic nursing home and the proposed nursing home sought under this application. Further, nursing care homes are a subset of residential land use and not considered a separate or different land use.
- The local planning policy provisions for transitional zonal areas is not a relevant consideration in this case.
- The full and part time staff who work 8-hour shifts at the site will number around 50. With this number broken down into 3 shifts and with the total staff compliment not exceeding 20 including staff who visit and are not required to complete 8 hours of work. It is further contended that not all staff will access the site by private car, and it is likely that the majority will travel via public transport, car share, bicycles and the like.
- It is contended that the school which occupies a larger site area, has a significant hard stand area; however, forbid the use of its lands for the pick-up and drop-off of pupils. As such this occurs on the public road and the school makes no mention of their own traffic management arrangements.

- This proposal includes footpaths and grass verges that increase the legibility for all road users as well as includes a crush barrier on the footpath to the eastern side of the entrance to the school to match that on the western side which the school has failed to install to date.
- This application is valid and meets the requirements set out under planning legislation.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response can be summarised as follows:

- There are sufficient separation distances remaining between the proposed development and surrounding residential properties.
- The proposed development would accord with the policies and objectives of their current Development Plan.
- The proposed development would not give rise to adverse residential amenity impact on properties in its vicinity.
- The Board is requested to uphold its decision and requests that Conditions No.s 10 and 17 are maintained.

7.0 Assessment

7.1. Introduction

7.1.1. There are 2 No. 3rd Party appeals received by the Board against the decision of the Planning Authority to grant permission subject to conditions for essentially the construction of a 3-storeys in height courtyard building with a stated 9,742m² gross floor area together with its associated site works, landscaping and services. The Planning Authority and the 1st Party, the applicant, seeks that the decision to grant planning permission for the proposed development sought under this application together with the conditions imposed under the Planning Authority's notification are upheld. Having carried out a site inspection, examined the documents associated with the appeal together with the issues raised in the grounds of appeal I consider that the relevant issues in this appeal case can be dealt with under the following broad headings:

- Principle of the Proposed Development.
- Residential Amenity Impact.
- Visual Amenity Impact.
- Car Parking Provision.
- Traffic Hazard and Road Safety Issues.
- Open Space Provision.
- Nuisance.
- Services.
- Appropriate Assessment.

7.1.2. I proposed to deal with these in turn in my assessment below.

7.2. Principle of the Proposed Development

- 7.2.1. The operative Development Plan is the Fingal County Development Plan, 2017 to 2023, under which the site is zoned 'C1' (Community Infrastructure). The stated objective for land zoned 'C1' is to: "*provide for and protect civic, religious, community, education, health care and social infrastructure*". 'Residential Care Homes' and 'Retirement Homes' are listed as being '*permitted in principle*'.
- 7.2.2. In addition, Chapter 12 of the Development Plan, on the matter of residential care homes, nursing homes, retirement homes and the like states that the: "*Council recognise that the provision of care for the elderly and other vulnerable people is an essential community requirement*".
- 7.2.3. It also indicates that in general there is a presumption against this type of development in the open countryside for reasons relating to sustainability, poor accessibility, lack of public transport, social exclusion and isolation.
- 7.2.4. On this point I note that Objectives PM48 and DM46 of the Development Plan requires that residential care homes, retirement homes, nursing homes, retirement villages and sheltered accommodation be located in towns and villages for reasons of sustainability, accessibility, social inclusion, and proximity to the availability of services, except where a demonstrated need to locate in a rural environment because of the nature of the care required can be clearly established.

- 7.2.5. This approach is also one advocated under the National Planning Framework which under Section 4.5 also seeks to focus such developments to existing urban locations including Brownfield sites like the appeal site and in relation to developments like that proposed where jobs will be generated once operational such urban locations are considered appropriate in terms of achieving targeted employment growth. For example, National Policy Objective 11 states: *“in meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth”*.
- 7.2.6. Objective DMS47 of the Development Plan sets out the general requirements for nursing home type of land uses. This includes that such applications consider and demonstrate the potential impact on residential amenities of adjoining properties, adequate provision of open space, provision of adequate parking facilities, design and proposed materials, a size and scale appropriate to the area, through to a location within close proximity to high quality public transport links and advocates that the site should be well served by good footpaths.
- 7.2.7. I also note that Objective PM66 of the Development Plan seeks the provision of accessible, adequate and diverse community facilities and services in new as well as established areas; and, Objective PM68 of the Development Plan promotes the clustering of community, recreational and open space facilities being located in local centres or combined with school facilities as appropriate. The site adjoins a National School on its northern boundary, to the north west a Montessori Pre-School and its eastern boundary adjoins a large pocket of public open space which includes recreational facilities like Portmarnock AFC.
- 7.2.8. I consider the local planning provisions as set out in the Development Plan which go beyond those referred to above are consistent with National Planning Framework, which for example under National Policy Objective 30 seeks that local planning focuses on meeting the needs and opportunities of an aging population. Through to National Strategic Outcome 10 which recognises the need for community based supports for older people including palliative care, additional capacity through the provision of long-term beds to meet the demographic need alongside additional short term beds to deliver an improved level of care for older persons and other sectors of

the population that require such specialist case. It advocates that a synergistic, integrated provision of health, community through to social services recognising that these are best provided within a community type setting.

- 7.2.9. In light of the above I consider that the proposed development complies with the permissible uses on 'C1' zoned land; it accords with the Development Plan Objectives, in that this development has been directed away from a rural locations, it is located where it can integrate with and be synergistic too other community based activities and services; it would be an employment generator that would add to employment available in this locality and subject to complying with planning requirements like those set out under Objective DMS47 of the Development Plan, I consider that the principle of the proposed development at this location is generally acceptable in terms of the local through to national planning policy provisions.

7.3. Residential Amenity Impact – Properties in the Vicinity

- 7.3.1. Concerns have been raised by the appellants in relation to the impact of the proposed development on existing residential amenity during the construction phase through to the operational phase should permission be granted for the development sought under this application. They also consider that this scale and type of nursing facility is inappropriate in such a residential suburban setting.
- 7.3.2. I accept that the proposed development, if permitted, will have an impact on established residential amenities, particularly as viewed from Limetree Avenue and to a lesser extent from the neighbouring Dal Riada residential development. The imposition of a 3-storey in height building of the scale proposed would undoubtedly change the context for residential properties particularly within its visual curtilage as would the removal of what is a vacant unkempt piece of urban land.
- 7.3.3. Notwithstanding, there are no residential properties immediately abutting the appeal site and the design concept put forward has placed the building almost centrally within the site with generous setbacks from the residential developments present on the opposite side of school road and Limetree Avenue.
- 7.3.4. For example, the main southern elevation of the proposed building is setback between 25 and 33meters from the roadside boundary with Limetree Avenue; and, the setback between the western elevation and the roadside boundary with school road measures c15m along most of its length.

- 7.3.5. In addition to this the design resolution includes substantive semi-mature tree planting and proposed new boundary treatment which include back planted beech hedge.
- 7.3.6. Moreover, the public domain, in particular that adjoining the western and southern boundaries of the site includes mature tree planting and there is a robust dense natural planted boundary adjoining the eastern boundary which forms part of a larger public open space. In addition, there are existing mature trees also adjoining the northern boundary of the site which bounds St. Helen's. The latter boundary is also proposed to be provided with heavy standard trees and a beech planted hedge together with a mesh fence. Moreover, similar setbacks are included between the proposed building and St. Helen's School which adjoins the northern boundary of the site and the adjoining public open space to the east.
- 7.3.7. I have had particular regard to the overall built form, scale, design, solid to void ratio of the elevations of the proposed 3-storey nursing facility building alongside the overall building to space relationship put forward under this design resolution for the site under the application proposed. I am satisfied that the proposed development subject to normal safeguards would not give rise to any significant undue residential amenity impact over and above that which would normally arise from development in such a suburban location. In particular, in terms of overshadowing, loss of daylight, loss of privacy, overlooking, perception of being additionally overlooked through to visual overbearance of private and semi-private domains of property in its vicinity.
- 7.3.8. I also consider that there would be some visual gains for residential amenity by way of the redevelopment of this vacant Brownfield site through to the enhancement of community availability facilities in that various provisions are proposed in this application to give back to the community making certain spaces within the proposed building available.
- 7.3.9. Further it makes for a more viable and healthy neighbourhood that there are provisions made for the care of the vulnerable members of society which require the facilities such a care home aims to provide through to it adds to the quantum and range of employment within this neighbourhood.
- 7.3.10. In light of this I am satisfied subject to standard safeguards that the proposed development does not warrant refusal based on residential amenity impact on properties in its vicinity.

7.4. Residential Amenity – Future Occupants

- 7.4.1. The proposed internal and external amenity provision for future occupants of this proposed nursing care home specialising in Alzheimer's Care, rehabilitation, convalescence and palliative care meet the required HIQA and Development Plan standards for this type of development.
- 7.4.2. Subject to the inclusion of obscure glass in all bathroom/en-suite windows which would protect occupants of this facility and also the privacy of properties in its vicinity as is provided for under Condition 4 of the Planning Authority's notification to grant permission and the provision of two age friendly additional spaces which in my view should be additional to the quantum of car parking already proposed I raise no substantive concerns in relation to the residential amenity of future occupants that would warrant refusal and/or any substantive changes to the proposed design resolution of this facility as put forward in this application.
- 7.4.3. I therefore consider that the proposed residential amenity for future occupants, as well as those employed to work in this proposed facility, are acceptable as they accord with relevant standards.

7.5. Visual Amenity Impact

- 7.5.1. The appellants raise concerns that the proposed development, if permitted, would give rise to visual overbearance through to would be a type of development by way of its 3-storey built form, massing, scale and layout be visually at odds with the established character of its setting.
- 7.5.2. While I acknowledge that the insertion of a 3-storey building with a stated 9, 742m² gross floor space and containing 151 bedrooms by way of its overall built form, scale through to massing would result in a significant change in context to the sites current vacant unkempt state which is devoid of any buildings. Notwithstanding, the design resolution is undeniably residential in its appearance and has taken elements of architectural expression as well as puts forward a palette of materials, finishes, treatments and colours that seek to harmonise as well as respect existing residential buildings in its setting in order to lessen its impact.
- 7.5.3. I am also cognisant that various government guidance seeks to ensure that suburban serviced sites like this accommodate where possible taller buildings that fully utilise and tap into their potential whilst also being sympathetic to their setting, for example

the documentation titled 'Urban Development and Building Heights, Guidelines for Planning Authorities', 2018.

7.5.4. This proposal seeks a building that is a storey taller than that which characterises its predominantly 2-storey setting. Arguably this results in a graduation of building height with the staggered height and breaking up of the volume of the roof structure over the proposed building also lessening the overall visual impact of what is a substantial in floor area building. In addition, the design resolution has also sought to break up the façade treatment both horizontally and vertically with significant number of windows present in each of its four facades; thus, reducing the solidity of the proposed buildings appearance when appreciated within its visual curtilage. Further, whilst the southern façade is visually very evident as the principal façade, there is a similarity in treatment of each of the other facades which ensure that there is appropriate qualitative animation in response to a site where it is appropriate that the design resolution is one that has resulted in a building that is appreciable in the round from outside of the site.

7.5.5. I am also of the view that the landscaping scheme put forward is of good quality and if successfully implemented to a high quality standard will also help soften and break up the appearance of the proposed building when viewed in its immediate and wider setting. There is also opportunity by way of condition to require further improvements to it should the Board deem that necessary including perhaps the requirement for the addition of evergreen specimen semi-mature trees along the southern and western boundaries to ensure that effective levels of screening are achieved in the medium to long term for neighbouring residential properties.

7.5.6. I am satisfied that subject to standard safeguards that the proposed development, if permitted, would not give rise to any undue adverse visual amenity impact on its setting, including but not limited to visual overbearance.

7.6. **Car Parking Provision**

7.6.1. The appellants raise serious concerns in relation to the car parking provision proposed under this application to serve the 151-number single bedroom nursing care home despite the proposals meeting the required standards set out under the Development Plan. They contend that the site setting including the public network in the immediate vicinity of the site suffers from serious traffic congestion, overflows of car parking

aligning the public roads through to this road network having to cater for St. Helen's School which adjoins the northern boundary of the site via the cul-de-sac school road that bounds the western boundary of the site, a school with a capacity of nearly 700 pupils and as the applicants contends operates to date without any formalised drop off and/collection provision on its grounds nor in conformance with any mobility management plan.

- 7.6.2. I also note that the appellants noted that prior to the applicant purchasing the subject site that it provided a valuable car parking area in the vicinity of the school and in the area. As such they contend that its loss has resulted in an exacerbation of congestion on the road network and an increased over-spilling of car parking on the public road in the vicinity of the site. On this point I consider that the land was in private ownership prior to the applicants purchase and the planning history of the site does not include any reference to it having the permitted use as a car parking area for public or other use. It is probable that it was a provision of the last use of the site which would appear to have been some type of church. It would therefore appear that the car parking that did occur since the last use of the site was abandoned was *ad hoc* with no evidence presented that there was consent of the previous owners in place for such use. Nor does there appear to be any current consent with the applicants, the current owners of the site, for the use of the entrance serving the site on Limetree Avenue to be similarly used for *ad hoc* parking which was the case at the time of my inspection of the site.
- 7.6.3. As the site is not in public ownership nor has it a permitted use for any type of car parking it is not in my opinion acceptable to assume that this non-authorised *ad hoc* use and trespass of the site should mitigate against it finding an appropriate site sensitive land use in the future nor should it be expected that a level of provision is provided within its curtilage to meet shortfalls arising from other land uses in its vicinity, in particular St. Helens School.
- 7.6.4. Having inspected the site and its setting alongside deciding to conduct this inspection at a time where St. Helens School closed for the day in order to observe the public road situation around the site and serving the site during one of its peak times of use I consider that the concerns raised by both appellants on the matter of car parking are with basis.

- 7.6.5. I also consider the concerns raised by the applicants as I have mentioned above, i.e. that there is no obvious mobility strategy in place for the collection of pupils within the grounds of St. Helen's School and that there is an inadequate provision of car parking on-site to cater for parents with the car parking that is present largely appearing to cater for staff is with some basis.
- 7.6.6. I further observed that there is a restricted in width public and substandard in surface condition footpath on school road that aligns with the western boundary of the site. Moreover, I observed that public footpaths particularly along Limetree Avenue and along the cul-de-sac serving St. Helens School were being encroached upon by mainly parents using them for parking to collect their children. This together with the *ad hoc* on-street car parking with the road width of Limetree Avenue being a measured c7.6m I observed that at this peak time that the situation for the safe movement of vehicles in both direction was not always achievable, there was not a safe provision of for the movement of vulnerable road users with many deciding to walk on the carriageway as opposed to the public footpaths, in essence the movement of vehicles and vulnerable road users in the vicinity of the site was chaotic and hazardous.
- 7.6.7. Having regard to the submitted drawings and the description of the development provided in the public notices a total of 38 no. car parking spaces which includes a provision of 4 no. disabled car parking spaces and the provision of 20 no. covered bicycle parking stands are proposed. Both provisions are in accordance with the standards required under the Development Plan with the care majority of car parking spaces provided in the setback area between the roadside boundary with Limetree Avenue and the southern elevation of the proposed building (Note: 30 car parking spaces). A further 6 car parking spaces are provided in proximity to the western side of the proposed building and 2 car parking spaces are proposed in the north easternmost corner of the proposed building.
- 7.6.8. I note subject to safeguards that the Planning Authority's Transport Department raised no objection to the quantum of car parking provisions proposed; however, they did seek that the applicant by way of condition designate 2 no. car parking spaces for age friendly car parking with these to be positioned in close proximity to the disabled spaces indicated on the site layout plan.

- 7.6.9. This was provided for under Condition No. 13 of the Planning Authority's notification to grant permission.
- 7.6.10. Notwithstanding I do accept the concerns raised by the appellants that the provisions set out under Table 12.8 of the Development Plan are considerably less than other Planning Authority's provisions in neighbouring Development Plans and I have noted the examples cited in both appeal submissions. Further, I am cognisant there is little to support the basis of these car parking standards for the different type of land uses they apply to.
- 7.6.11. I also note that the appellants concern in relation to the adequacy of the car parking is further heightened when regard is had to the number of staff that would be employed when the proposed development becomes operative.
- 7.6.12. I note that Section 4.0 of the accompanying Planning Compliance report on this matter states: "*staff will be on site 24/7 operating in shifts with the majority of support staff on site during day time hours and supported on an around the clock basis*" with the anticipated "*total of FTEs (Full Time Equivalent)*" of "*around 120 once fully operational*".
- 7.6.13. It would also appear from the documentation that is these types of numbers for which services like foul and water are based on alongside the number of single bed space rooms proposed as well as that this staff compliment would also be supported by other support staff through to the proposals include that both the café and the dayrooms would be for use by the community as well with the dayrooms available for community groups and the like on a timetable basis.
- 7.6.14. As discussed the car parking provision is in accordance with the Development Plan standards for the principle use of the proposed building, no fundamental objection to the provision has been raised by the Planning Authority's Transport Department and no objection is raised by the applicants in their response to the grounds of appeal to the implementation of the requirement of Condition No. 13 or indeed the other specific requirements recommended by the Planning Authority's Transport Department in the event of a grant of permission which are broadly set out under Condition No. 12 of the Planning Authority's decision notification. Condition No.12 provides in part for the staggering of deliveries and shifts to hours outside of the peak hours associated with the drop off and collection of pupils of St. Helen's N.S. It also seeks the preparation

of a written mobility management plan for written approval of the Planning Authority prior to construction of any development on site through to it seeks that the visibility from the entrance onto Limetree Avenue is not obstructed.

- 7.6.15. I further note that the submitted documentation includes the provision of a public footpath on the development side of the public roads with this continuing to the east of the site where it would connect with the access road that serves Portmarnock AFC. Thus, qualitatively and quantitatively improving pedestrian links in its immediate vicinity which are substandard along the sites road frontage with Limetree Avenue.
- 7.6.16. I question the merits of not providing any car parking provision in addition to that required under Table 12.8 for the primary use proposed for the ancillary uses of the café and dayrooms which the documentation indicate would be available for community use as part of one of the measures proposed to integrate this facility and embed it into the community of the surrounding area. Having regard to the standards set out in the Development Plan under Table 12.8 for café and community centre type uses, the latter I consider is the closest to the day room functional use, with community use standard based on the provision of 1 car parking space per 15m² gross floor area and 1 per 50m² gross floor area respectively this equates to the provision of an additional 6.64 car parking spaces.
- 7.6.17. In my view it would be appropriate that this figure is rounded having regard to the surrounding situation of the site in order for the proposed development, if permitted, to not significantly or detrimentally add to the congestion, traffic obstructions through to over-spilling of on-street car parking onto the public road network in its immediate vicinity which is a considerable current problem.
- 7.6.18. It is a problem for which there is no evidence to suggest there is any short to long term solution proposed for either publicly or by St. Helens School.
- 7.6.19. I consider that there is space particularly along the northern boundary of the site where 7 additional car parking spaces can be provided in a manner that would not unduly impact on the root protection zone of the trees along this boundary subject to sensitive design measures. Further a redesign of the car parking and access between the principal façade and Limetree Avenue could be modified to provide additional car parking spaces as well as a more considered set down area to the main door serving

the proposed nursing facility to better cater for emergency service vehicles and the like.

7.6.20. I also note that the site chosen is within walking distance of a number of bus stops within 500m of the site. This includes Dublin Bus Stop 6051 and 6052 which are located immediately to the west of the junction of Onward Walk, Blackwood Lane, Carrickhill Road and Wendel Avenue (Note: Served by Bus 42, 42d and 142). In addition, there are a number of Bus Stops on Redfern Avenue (Note: Served by Bus 32X, 42, 42d, 102 and 142).

7.6.21. In light of the above should the Board be minded to granting permission I recommend that it considers the actual quantum of uses proposed including the café and day room at ground floor level to be used by the public as a community facility. Subject to the inclusion of an additional 7 car parking spaces on site and the inclusion of the requirements of Condition No.s 12 and 13 of the Planning Authority's decision notification in any grant of permission by the Board I raise no other concerns in relation to the proposed development and its car parking provision.

7.7. Traffic Hazard and Road Safety

7.7.1. The site benefits from an existing access onto Limetree Avenue at a point where required standard sightlines for this type of development are achievable in both directions. This proposal seeks to improve this access alongside providing a more acceptable in qualitative standard public footpath on either side of the improved Limetree Avenue entrance which would not only provide improved linkage for the site and its future occupants, visitors and staff to access the facility on foot; moreover, it is a positive gain in general for the area with the current substandard footpaths bounding the southern boundary of the site as well as the western boundary of the site providing vulnerable access to St. Helens N.S. on foot as well as providing linkage with public amenities like the adjoining large public open space which provides both passive and recreational amenity for those living in this area.

7.7.2. The documentation provided with this application demonstrate that the public road network can provide the necessary access to the site for the range of vehicles that would require access and the design resolution provides the main car parking area in the southern portion of the site in close proximity of the principal access to the building

with ample access driveways linking from the entrance to the rear of the site where deliveries and the like will occur.

7.7.3. I consider that the recommended provision of an additional number of car parking space, the adoption of an agreed mobility plan that not just deals with the construction phases but also deals with the operational phases that would include working shifts and deliveries avoiding peak drop off and collection times associated with both the junior and senior elements of St. Helen's N.S. should ensure that the proposed development alongside the other recommendations of the Planning Authority's Transportation Department which are by and large set out under Conditions No.s 12 and 13 of the notification to grant permission, should the Board be minded to grant permission, should ensure that no undue additional traffic hazards and/or road safety issue should arise from the proposed development.

7.7.4. There is however a real need for some measures to be put in place in relation to the mobility management associated with St. Helen's School which would further benefit the public road system in this area considering that this educational facility accommodates nearly 700 students and unknown number of staff. Notwithstanding, this, I acknowledge that this is a matter that lies outside the bounds of the Boards considerations in the determination of this appeal case and I do not consider that it should be considered as a matter that would block the redevelopment of this vacant Brownfield site.

7.8. **Open Space Provision**

7.8.1. The appellants raise concern in relation to the open space provision and to the loss of biodiversity from the site due to the loss of trees and planting that are present on the site.

7.8.2. In relation to the proposal put forward the open space provision totals 36% of the site area, with this total excluding sundry areas and planted areas bounding site boundaries where the landscaped spaces have no qualitative passive or recreational amenity value for future occupants, staff and visitors. I also note that site coverage is 29% of the overall site area and that the building includes a central courtyard to provide a safe and secure open space for the vulnerable future occupants that require such a provision.

- 7.8.3. The loss of trees from the site consist mainly of self-seeded trees and two hedge lines of *Cypressus cypario leylandii*. The latter tree species is non-native and of limited biodiversity to this locality.
- 7.8.4. Further I observed that the self-seeded trees are not of any significant qualitative merit though they together with the unkempt and overgrown portions of the site do provide some level of ecological habitat in this suburban setting. However, when consideration is given to the fact that c57 location as well as species appropriate trees will be introduced into the site as part of the overall landscaping scheme this together with existing trees that will be protected and safeguarded that exist mainly around the perimeters of the site I am of the view that this would positively add to the visual amenities and biodiversity of the area in a positive manner.
- 7.8.5. It would also result in a more of a synergistic habitat with the parkland adjoining it and the provision of tree lined planting along particular the western and southern boundaries will also perform the function of limiting potential or perceptions of overlooking for properties in the area alongside naturally softening the appearance of the proposed building as observed and appreciated from the public through to private domain that surrounds it.
- 7.8.6. I also note that the documentation submitted with this application include measures to safeguard the trees to be maintained and that the Planning Authority's Parks Department have raised no substantive issue with the proposed development subject to any grant of permission including a tree bond condition and a number of other standard measures. These are set out under Condition No. 9 and 10 of the Planning Authority's notification to grant permission. Subject to the inclusion of similar conditions as part of any grant of permission by the Board alongside the inclusion of a condition that requires written approval of the final landscaping and tree protection measures prior to any construction works commencing I raise no substantive concern in terms of the proposed development on the matter of open space provision, including on the matter of the design of the sensory garden.
- 7.8.7. The latter can be subject to a specific condition should the Board deem that it requires revisions. As I am not an expert in this area, I consider it is more appropriate and reasonable that a final landscape scheme is subject to written agreement with the

Planning Authority prior to the commencement of development and that the landscaping works are fully completed prior to occupation of the nursing home facility.

7.9. Nuisances

- 7.9.1. The appellants raise concerns in relation to the potential of the proposed development, if permitted, to give rise to undue nuisance during the construction and operational phases. These concerns are reasonable in my view given the established suburban context of the site, its setting through to having regard to the immediate public road network in the vicinity of the site which would serve it and the fact that an educational institution which also includes an adjoining playground area bounds the site.
- 7.9.2. However, subject to standard safeguards that would be normally imposed alongside the mobility management plan already discussed in this assessment to deal with matters such as noise, dust, vibrations, hours of construction/operational hours, appropriate management of construction waste, deliveries and the like which ensure that the construction works through to operation of the facility occurs in a manner that accords with best practice and in a manner that is neighbourly I raise no substantive concerns that would warrant refusal of permission on nuisance grounds.

7.10. Services

- 7.10.1. **Foul:** The site benefits from an existing 225mm diameter sewer connection to the public sewer network. This is located in the south of the site on Limetree Avenue and the applicant proposes to upgrade this for meeting its wastewater needs and the location of the building is such that it does not affect the run of this existing sewer which traverses the site.

The applicant has based the design of their foul sewer connection infrastructure on best accepted practice and their discharge calculations on the Irish Water Code of Practice for Wastewater Infrastructure (Document No. IW-CDS-5030-03 Rev 1, December, 2017) with this based on 151 residents and 128 staff; they submitted an Irish Water Pre-Connection application.

The applicant indicates that all works will be carried out in accordance with Irish Water standard details & Code of Practice with a grease trap also provided on this line and that all foul sewer pipework is to be taken in charge.

I note that Irish Water and the Planning Authority have raised no substantive issues on this aspect of the proposed development nor has any capacity issues been raised by them. I therefore raise no substantive concern on this aspect of the proposed development.

7.10.2. **Water Main:** The site benefits from an existing 100mm diameter water main to the south of the site. It is therefore proposed to connect to this to serve the development which it is anticipated would have a total daily demand of 64,370 litres per day.

The applicant proposes to provide all watermain infrastructure in a manner that accords with Irish Waters Code of Practice and standard details.

No objection has been raised by Irish Water or the Planning Authority in relation to this aspect of the proposed development nor is there any capacity issues raised.

I therefore raise no substantive concern on this aspect of the proposed development and I concur with the safeguards recommended in the notification to grant permission in relation to this particular matter.

7.10.3. **Surface Water:** The proposed development indicates that surface water on site will be dealt with in a manner that accords with the Greater Dublin Strategic Drainage Strategy.

In order to control runoff from the site a number of measures are proposed including the provision of a partial green roof on the north easternmost projection of the proposed building, permeable paving through to a swale for footpaths and roof drainage.

I note that a petrol interceptor is also proposed in order to remove suspended oil particles prior to discharge to the public surface water system and the documentation also indicates that surface water discharged would be controlled via a hydro-break control valve or similar to limit discharge from the site and that attenuated water will be stored within a buried tank system located under the car park area with the discharged controlled to the existing 225mm diameter surface water pipe.

The Planning Authority and Irish Water have raised no objections to the proposed measures subject to standard conditions.

Based on the above I raise no substantive concerns in relation to the matter of drainage and I concur with the provisions included in the notification to grant

permission by the Planning Authority in relation to this particular matter. I also note to the Board that the site and its vicinity have no recorded incidents of flooding on the OPW FEM FRAMS Maps. I therefore also consider that the proposed development, subject to best practice, would not give rise to any flooding issues or exacerbate flooding of land in its vicinity.

7.11. Appropriate Assessment

7.11.1. This application is accompanied by a robust screening report which concluded that despite the significant number of European sites within a 15km radius of the site that significant effects are not likely to arise, either alone or in combination with other plans or projects to any SAC or SPA.

7.11.2. As set out in Section 5.3 of this report the nearest European sites are:

- Malahide Estuary SAC (Site Code: 000205) which is located c838meters to the east of the site;
- Malahide Estuary SPA (Site Code: 004025) which is located c862m to the north east of the site;
- Baldoyle Bay SAC (Site Code: 000199) which is located c1.9km to the south of the site; and,
- Baldoyle Bay SPA (Site Code: 004016) which is located c1.98km to the south of the site.

7.11.3. In relation to Malahide Estuary SAC the features listed of special interest are: Mudflats and sandflats not covered by seawater at low tide [1140]; Salicornia and other annuals colonising mud and sand [1310]; Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]; Mediterranean salt meadows (*Juncetalia maritimi*) [1410]; Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes) [2120]; and, Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]. The site-specific conservation objective for this European site is the maintenance of these habitats at favourable conservation condition. The conservation objective for this site is the maintenance of its habitats at favourable conservation condition and in turn this will contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

7.11.4. The Malahide Estuary SPA overlaps with this SAC and it is of ornithological importance with the features of interest listed as: the Great Crested Grebe (*Podiceps cristatus*) [A005]; the Light-bellied; the Brent Goose (*Branta bernicla hrota*) [A046]; the Shelduck (*Tadorna tadorna*) [A048]; the Pintail (*Anas acuta*) [A054]; the Goldeneye (*Bucephala clangula*) [A067]; the Red-breasted Merganser (*Mergus serrator*) [A069]; the Oystercatcher (*Haematopus ostralegus*) [A130]; the Golden Plover (*Pluvialis apricaria*) [A140]; the Grey Plover (*Pluvialis squatarola*) [A141]; the Knot (*Calidris canutus*) [A143]; the Dunlin (*Calidris alpina*) [A149]; the Black-tailed Godwit (*Limosa limosa*) [A156]; the Bar-tailed Godwit (*Limosa lapponica*) [A157]; the Redshank (*Tringa totanus*) [A162]; and Wetland and Waterbirds [A999]. The conservation objective for this SPA is the maintenance of its species at favorable conservation condition which will contribute to the overall maintenance of favorable conservation status of these species at a national level.

7.11.5. In relation to the Baldoyle Bay SAC the features of special interest are: the Mudflats and sandflats not covered by seawater at low tide [1140]; the *Salicornia* and other annuals colonising mud and sand [1310]; the Atlantic salt meadows (*Glaucopuccinellietalia maritimae*) [1330]; and, the Mediterranean salt meadows (*Juncetalia maritimi*) [1410]. The site-specific conservation objective for this European site is the maintenance of these habitats at favourable conservation condition. The Baldoyle Bay SPA overlaps with this SAC and the features of special interest are the: Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]; the Shelduck (*Tadorna tadorna*) [A048]; the Ringed Plover (*Charadrius hiaticula*) [A137]; the Golden Plover (*Pluvialis apricaria*) [A140]; the Grey Plover (*Pluvialis squatarola*) [A141]; the Bar-tailed Godwit (*Limosa lapponica*) [A157]; and, the Wetland and Waterbirds [A999]. The conservation objective for this SPA is the maintenance of its species at favorable conservation condition which will contribute to the overall maintenance of favorable conservation status of these species at a national level.

7.11.6. This appeal site is a brownfield site in a serviced and established suburban area in north County Dublin. There is an existing water main to the south of the site and also an existing sewer connection also to the south of the site on Limetree Avenue. The appeal site contains no watercourses or are there any watercourses in the immediate vicinity of the site. As such there are no tangible biological and/or hydrological connectivity to any of the above sites outlined or indeed any other European site within

a 15km radius with the site. The proposed development sought includes measures to ensure that wastewater through to surface water are dealt with in a manner that accords with best practice and standards required for this type of development. It also seeks to lessen surface water run-off on site with the use of green roofs, minimising the footprint of the proposed building which in turn increases the level of deep soil on site, through to soakaways designed in accordance with BRE Digest 365.

7.11.7. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site with a 15km radius. I therefore conclude that a Stage 2 Appropriate Assessment is not required in this case.

7.12. **Other Matters Arising**

7.12.1. Should the Board be minded to grant permission for the proposed development and having inspected the site's setting which includes a number of mature as well as good quality trees that bound the site boundaries, in particular along the western boundary which align the cul-de-sac road serving St. Helens School, I consider it appropriate in this instance that a tree bond condition is imposed. I note that this is provided under Condition No. 10 of the Planning Authority's notification to grant permission for the development sought under this application.

8.0 **Recommendation**

8.1. I recommend that planning permission be **granted**.

9.0 **Reasons and Considerations**

The proposed development is located on community infrastructure zoned lands for which the land use objective is to '*provide for and protect civic, religious, community, education, health care and social infrastructure*' in the Fingal County Development Plan, 2017 to 2023.

The proposed development comprises nursing care home specialising in Alzheimer's care, rehabilitation, convalescence and palliative care. This use is permitted in principle on lands so zoned.

Moreover, Objectives PM48 and DMS46 of the Fingal County Development Plan, 2017 to 2023, which seeks to direct the location of care homes away from rural locations. As such the suburban location of the proposed nursing home as is its location in the vicinity of other community-based infrastructure and services is also deemed to be acceptable.

Having regard to the design, scale and layout of the proposed development, the pattern of development in the area and subject to compliance with the conditions set out below, it is considered that the proposed development would not seriously injure the amenity of adjoining property or the visual amenities of the area, would not give rise to traffic hazard and/or road safety issue.

The proposed development would, therefore, be in accordance with the provisions of the Fingal County Development Plan, 2017 to 2023, and in turn the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission is for 151 single occupancy rooms only. No ancillary rooms shall be converted to bedrooms without a prior grant of planning permission.

Reason: In the interests of clarity.

3. (a) During the construction phase, no construction traffic shall arrive to or leave the subject site at times that conflict with the drop off and collection times associated with St. Helen's National School. Prior to the commencement of any development on site the applicant shall submit for the written agreement of

the Planning Authority details of how it is proposed to accommodate these requirements.

(b) Prior to the commencement of operation of the nursing facility the applicant shall submit for the written agreement of the Planning Authority details of how the full-time staff operational shifts will be organised so to avoid conflict with the drop off and collection times associated with St. Helens National School.

(c) Prior to the commencement of development the applicant shall submit for the written agreement of the Planning Authority details of how it is proposed to accommodate deliveries and collections associated with the operational day to day running of the nursing care home facility so that these occur outside of the drop off and collection times associated with St. Helen's National School.

Reason: In the interests of public safety and in the interests of clarity.

4. Prior to the commencement of development the applicant shall submit for the written agreement of the Planning Authority details associated with the provision of 2 no. car parking spaces for age friendly car parking with these to be located in close proximity to the disabled spaces proposed in the southern portion of the site alongside the provision of an additional 7 car parking spaces to accommodate the additional potential demands of the café and day room community/public use.

Reason: In the interest of the proper planning and sustainable development for the area and in the interest of public safety.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. (a) Prior to commencement of development, proposals for a name and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any proposed lighting to be provided for the illumination of this signage shall also be provided in tandem for the written agreement of the Planning Authority.
- (b) No additional signage, advertising structures/advertisements, projecting elements, including flagpoles and any associated lighting shall be erected on the building or within the site unless authorised by a further grant of planning permission.
- (c) No music or other amplified sound shall be broadcast or emitted externally from the premises.
- (d) Prior to the commencement of development, all external lighting shall be provided in accordance with a lighting scheme which shall include lighting along access road, pedestrian routes, entrance onto Limetree Avenue through open spaces details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to operation of the nursing care home.

Reason: In the interest of orderly development, in the interests of urban legibility and in the interest of residential amenity.

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

Reason: In the interest of public health.

9. All bathroom/en-suite windows shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.

Reason: In the interests of residential amenity.

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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

(a) Location of the site and materials compound(s) including areas identified for the storage of construction refuse;

(b) Location of areas for construction site offices and staff facilities;

(c) Details of site security fencing and hoardings;

(d) Details of on-site car parking facilities for site workers during the course of construction;

(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

(f) Measures to obviate queuing of construction traffic on the adjoining road network;

(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

(m) All necessary measures shall be taken by the applicant/developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developers own expense.

(n) The applicant/developer shall be responsible for the full cost of repair in respect of any damage caused to the adjoining public road arising from the construction work and shall either make good any damage to the satisfaction of the Council or pay the Council the cost of making good any such damage upon issue of such a requirement by the Council.

(o) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

12. The applicant shall comply with the following requirements of the Planning Authority:

(a) The proposed development and the soft landscaped areas shall be used to maximise one or more of the following: bio-retention areas, swales, infiltration measures, basins/ponds as opposed to a Stormtech™ system. Prior to commencement of construction the developer shall submit an acceptable surface water drainage design, maximising over-ground water conveying and storage methods;

(b) Prior to commencement of construction the developer shall submit details of the proposed swale, permeable paving, and the green roof system, and indicate where the effects of these features have been allowed for in the drainage design.

(c) The developer shall provide permeable surfacing for the access/service road to the rear, a Grasscrete™ or similar system may be ideal, except where change is agreed in writing with the Planning Authority.

(d) No surface water/rainwater is to discharge into the foul water system under any circumstances; and

(e) The surface water drainage shall be in compliance with the 'Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006.

Reason: In the interest of the proper planning and sustainable development for the area.

13. The applicant shall implement the findings & recommendations of the tree report & Arboricultural Method Statement including:

(a) Tree protection measures prior to the commencement of construction works under the supervision of the Arboricultural consultant.

(b) All works in or close to root protection areas shall be under the supervision of the Arboricultural consultant.

Prior to the commencement of development details of how this will be achieved and implemented shall be subject to the written agreement of the planning authority.

Reason: In the interest of the proper planning and sustainable development for the area.

14. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) A plan to scale of not less than [1:500] showing:
 - (i) The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species];
 - (ii) Details of screen planting species [which shall not include cupressocyparis x leylandii but shall consider the use of evergreen species];
 - (iii) Details of roadside/street planting [which shall not include prunus species];
 - (iv) Details of the sensory garden scheme.
 - (iv) Hard landscaping works, specifying surfacing materials, furniture [play equipment] and finished levels.
 - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
 - (c) A timescale for implementation [including details of phasing].
 - (d) Details of all tree protection measures to be utilised during construction phases.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

15. A tree bond of €5,000 is to be lodged with the planning authority prior to the commencement of development in order to ensure that the trees are protected and maintained in good condition through the course of development. This bond will be held by the planning authority for a period of 1-year post construction which may be extended in the event of possible construction related defects and/or loss to trees resulting from the construction works associated with this development.

Reason: In the interest of the proper planning and sustainable development of the area.

16. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall also provide for operational activities including staff shifts, deliveries and the like to be organised outside of drop off and collection times of St. Helen's National School. The mobility strategy shall be prepared and implemented by the applicant for the running of this nursing care home. Details to be agreed with the planning authority shall include the provision for shower and changing facilities associated with the policies set out in the strategy for staff as well as all internal road network serving the proposed development [including turning bays, parking areas, footpaths, kerbs and associated lighting] shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of encouraging the use of sustainable modes of transport.

17. The applicant shall comply with the following requirements of the planning authority's Environmental Health Officer:

- (a) Designated food preparation sinks and any ice machines shall be serviced with a potable supply of water.
- (b) Sufficient artificial lighting shall be provided throughout the premises.
- (c) Sufficient ventilation to be provided for all sanitary accommodation areas.
- (d) All lobbies leading from sanitary accommodation areas to food areas to be ventilated to the outer air.
- (e) All kitchen, dining and food preparation areas to be provided with adequate ventilation.
- (f) Suitable storage must be provided for all waste and waste bins.
- (g) Suitable facilities must be provided for the segregation and safe storage of food waste.
- (h) A suitable grease trap to be provided for drainage from the food premises. Enzyme based systems are not suitable.
- (i) All food premises are required to comply with the structural standards and requirements specified in national standards Hygiene and Catering I.S.340.

Note: The applicant should consult with the requirements of the Principal Health Officer, H.S.E., Northern Area, 1st Floor, Unit 4 & 5, The Nexus Building, Blanchardstown Corporate Park, Ballycoolin, Dublin.

Reason: In the interest of Public Health.

18. The applicant shall comply with the following requirements of the Environmental Health Officer Air and Noise Unit:

- (a) During the construction phase works required shall incorporate the following:
 - No heavy construction equipment/machinery (to include pneumatic drills, construction vehicles, generators, etc.) shall be operated on or adjacent to the construction site before 08:00 or after 19:00, Monday to Friday, and before 08:00 and after 13:00 on Saturdays.

- No activities shall take place in site on Sundays or Bank Holidays.
- No activity, which would reasonably be expected to cause annoyance to residents in the vicinity, shall take place on site between the hours of 19:00 and 08:00.
- There shall be no deliveries to the site after 19:00.

(b) If there is any occasion when work must be carried on outside daytime hours, this department, local residents and businesses in areas which are likely to be affected by noise from the proposed works should be notified in advance e.g. in letter or leaflet or advertisement form, of:

- Name, address and telephone number of the company carrying out works.
- Nature of and reason for works.
- Likely duration and times of works.

(c) All construction work carried out shall have regard to B.S. 5228:2009+A1:2014 'Noise and Vibration control on construction and open sites to minimize noise from construction operations. All equipment used on site shall be fitted with effective silencers and/or sealed acoustic covers.

(d) The developers shall apply best practice guidance in relation to Noise and Vibration control on construction and open sites. Should noise levels exceed the threshold, steps will be taken by the contractor to review the works and implement additional mitigation measures where practicable.

(e) A programme of continuous noise monitoring shall be carried out during the construction phase of the development. The results of which shall be submitted to the Environmental Health Department of Fingal County Council on request.

(f) During the construction work all necessary steps shall be taken to contain dust and airborne pollutants arising from the site and to prevent nuisance to persons in the locality. This shall include (i) covering skips, (ii) covering slack heaps, (iii) netting of scaffolding, (iv) regular road and pavement damping and sweeping, (v) use of water spray to suppress dust, (vi) proper paved or hard stand access for trucks and vehicles to and from the site to

prevent dirt and dust from the site being carried from the site on to public roads etc. Should dust levels become excessive, steps will be taken by the contractor to review the works and implement additional mitigation measures where practicable.

(g) A programme of dust monitoring shall be carried out by the developer at locations adjacent to the site boundaries and shall be made available to the local authority on an agreed basis and/or on request. Set up monitoring points at the proposed locations to measure total dust deposition rates. The amount of dust deposited anywhere outside the proposed development, when averaged over a 30-day period should not exceed:

- 130mg/m² per day when measured according to the BS method which takes account of insoluble components only, or
- 350mg/m² per day when measured according to TA Luft, which includes soluble and insoluble matter. (EPA compliance monitoring is based on the TA Luft method).

(h) Special consideration shall be taken to the siting of all mechanical services to prevent nuisance from noise or odours to the local businesses and/or residents in close proximity to the premises. Clearly audible and impulsive tones at noise sensitive locations during evening and night shall be avoided irrespective of the noise level.

(i) Noise due to the normal operation of the proposed development shall not cause a noise nuisance to nearby noise sensitive location shall not exceed the background level by 10dB(A) or more or exceed NG4 limits whichever is lesser.

- Daytime (07:00 to 19:00hrs) – 55dB LA_r, T
- Evening (19:00 to 23:00hrs) – 50dB LA_r, T
- Night-time (23:00 to 07:00hrs) - 45dB LA_r, T

(As measured from the nearest noise sensitive location/s).

(j) The development shall be so operated that there will be no emissions of malodours, gas, dust, fumes or other deleterious materials, no noise vibration

or site as would give reasonable cause for annoyance to any person in any residence, adjoining unit or public place in the vicinity.

Reason: In the interest of Public Health.

19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Patricia-Marie Young
Planning Inspector

21st day of April, 2020.