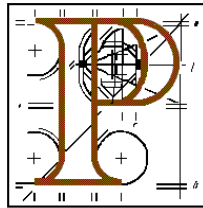


An Bord Pleanála



Inspectors Report

Development: 166 No. dwellings (125 No. Houses and 41 No. apartments), a crèche facility (c.234 sq.m.) plus associated outdoor play area and a public park of c.1.04Ha including children's playground. The development comprises of 12 No. 3-storey 5 Bed terraced houses; 35 No. 2-storey 4-Bed houses (6 No. detached and 29 No. mid or end of terrace) - 17 No. applied for with the option of a fifth bedroom at attic level served by a dormer window in the front elevation (House Type T2); 78 No. 2-storey 3-Bed houses (all mid or end of terrace) - 32 no. applied for with the option of a single storey family room rear extension and a fourth bedroom at attic level served by a dormer window in the front elevation (House Type T1) and 19 No. Applied for with the option of a single storey family room rear extension (House Type T3 & T4) and 11 No. with integrated garage (House Type T5); 36 No. 2-Bed apartments and 5 No.1-Bed apartments each served by a balcony/ terrace accommodated in 4 No. 4-storey buildings with setback penthouse level. All houses and apartments have solar panels provided at roof level. The proposed development is served by a total of 288 No. surface car parking spaces in a variety of on-curtilage and on-street conditions, including 3 No. dedicated crèche car parking spaces, 27 No. dedicated ChildVision car parking spaces as well as 41 No. bicycle parking spaces for the apartments; a new vehicular entrance off Grace Park Road with the existing entrance (gates and piers part of a Protected Structure) to continue to provide vehicular access to the existing gate lodge only (part of a Protected Structure) and pedestrian and cycle access to the new public park and residential development. the proposed development involves the demolition of Gentili House (c.393 sq.m.) which adjoins Drumcondra Castle (a Protected Structure) and Rosmini House (c.394 sq.m.) and all associated and ancillary site development and landscape works including ESB substation (19 sq.m.). Residential development and landscaping works will take place on a site of c.4.97 Ha. Permission is also sought for the laying of a new surface water sewer & foul sewer connection across the adjoining St. Vincent's Hospital

lands to the southwest of the site within a corridor c.0.57Ha extending south to Richmond Road. All at St. Joseph's Grace Park Road, Drumcondra, Dublin 9

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref. 2991/15
Applicant: CTN Developments
Type of Application: Permission
Planning Authority Decision: Grant

Planning Appeal

Appellant(s): Ierne Social and Sports Club
Hugh McDonagh
Mark & Deborah Donnelly
CTN Developments

Observers: Griffith Court Residents Group

Type of Appeal: First and Third Party

Date of Site Inspection: 28/01/16

Inspector: Gillian Kane

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1.0.0 SITE LOCATION AND DESCRIPTION

- 1.0.1 The subject site is located on the eastern side of the Grace Park Road in Drumcondra, Dublin 9, approximately 2.5km to the north of Dublin City Centre. The subject site comprises the greenfield lands to the south and east of the cluster of buildings formerly known as St Joseph's Home for the visually impaired, now known as ChildVision. The ChildVision lands (2.4ha) incorporates the protected structure Drumcondra Castle and curtilage and the protected structure the Gate Lodge, all of which are outside of the application site. The entrance gates, piers and Ironworks (RPS Ref No 3264) to the south of the gate lodge are however included in the application site.
- 1.0.2 Access to the overall land holding is currently available at three points along Grace Park Road. The northernmost access serves the rear entrance to the Rosmini primary and secondary schools and sports field. To the south of this a vehicular access services the ChildVision buildings and crèche. A pedestrian access serves the administration building by the southern side of the chapel. The final access is to the south-western corner of the site through a Victorian cut stone entrance gateway with cast iron gates and gate lodge adjacent. To the north west of the site is the setting for the historic buildings, which are devoted to a primary school, clinic, crèche and outreach services for ChildVision. The chapel to the west has a separate graveyard to the east of the main buildings. The ChildVision property also contains the partial remains of two walled gardens to the north and east of the house. The grounds to the south and east are parkland currently in use as a trekking route by ChildVision.
- 1.0.3 Land slopes generally in south eastward direction and is slightly elevated above adjoining lands to the south. Adjoining to the north of the site is a secondary school - Pobailscoil Rosmini with GAA pitch alongside. The back gardens of houses of Griffith Court and section of cul-de-sac off Annadale Drive adjoin to the east. Adjoining along the southern boundary is a short terrace of houses Grace Park Gardens and open lands forming part of St Vincent's. To the west is Grace Park Road and all Hallow's College is located opposite the site to the west.
- 1.0.4 Photographs and maps in Appendix 1 serve to describe the site and location in further detail.

2.0.0 PROPOSED DEVELOPMENT

2.0.1 Permission was sought for a development comprising;

- demolition of two existing structures (787sq.m.)
- construction of 125 no. houses ranging from 104.7sq.m. to 186.9sq.m. comprising
 - 78 x three bedroom two storey houses (house types T1, T2, T3, T4 and T5)
 - 35 no. four bedroom two storey houses (house types T06, T07, T02, T11, T02)
 - 12 no. five bedroom three storey houses (house type T10)
- 41 apartments ranging from 55.1sq.m. to 107.3sq.m. in four separate buildings, 5 x one bed and 36 x two bed units
- Crèche 234sq.m. to accommodate 40 no. children with outdoor play area of 484sq.m.
- New vehicular entrance off Grace Park Road
- 249 residential car parking spaces, 9 no. visitor spaces, 27 no. spaces for ChildVision and 3 no. crèche spaces (total 288)
- 41 no. bicycle spaces
- 1.04ha public park
- New surface water sewer 400m

2.0.2 Total site area of 5.54ha (4.97ha of development land, 0.58ha refers to surface water sewer only), 787sq.m. of existing buildings to be demolished and 19,990sq.m. of proposed new build leading to a plot ratio of 0.57 and site coverage of 24.7%.

2.0.2 The application was accompanied by the following:

- Indicative Masterplan
- Transport Statement
- Construction Management Plan
- Schedule of Accommodation
- Architectural Heritage Impact Assessment
- Ecological Impact Assessment
- AA Screening Report
- Design Rational Landscape Architecture
- Site Specific Flood Risk Assessment
- Aborigicultural Implication Assessment and Aborigicultural Method Statement
- Engineering Services Report
- Hydraulic Assessment Report
- Design Statement
- Letter of Support from ChildVision – adjoining land user

- Planning Statement

2.0.3 17 no. submissions were submitted to the Council.

2.1.0 Reports on File following submission of application

2.1.1 **City Archaeologist:** Proposed development is in zone of archaeological constraint of 4 no. recorded monuments. Archaeological condition recommended

2.1.2 **RPA:** Subject site within metro north section 49 Levy scheme.

2.1.3 **Irish Water:** No objection

2.1.4 **Environmental Health:** 4 no. standards conditions recommended.

2.1.5 **Conservation Report:** Grant recommended. Proposed development does not involve any works to heritage complex. Relocation of entrance closer to Drumcondra Castle is regrettable, loss in architectural heritage terms is significant.

2.1.6 **Roads & Traffic Planning:** Dept. satisfied that the additional traffic generated by the proposed development can be accommodated on the local network. No objection to the proposed development subject to 5 no. conditions.

2.1.7 **Engineering Division Drainage:** No objection subject to 14 no. conditions.

2.1.8 **Planning Report:** Proposed site coverage and plot ratio are acceptable. Proposed dwelling finishes acceptable. Proposed residential mix acceptable. All residential units comply with floor areas. Some concern that balconies proposed on apartment blocks will give rise to residential amenity issues. Applicant should be requested to address location and design. Third parties and the landscape department have raised concerns about the retention of the existing trees along the southern boundary adjoining the sports club. Applicant should be requested to address these concerns. Proposed eastern boundary is satisfactory. Proposed private open space provision for apartments is not in compliance with development plan standards. Applicant should be requested to address. Proposed house no 13 should be omitted as the separation distance of 6.8m to house no. 15 is insufficient. Details of the proposed boundary treatments for the crèche open space are insufficient. Applicant should be requested to clarify how the proposed crèche complies with national standards.

2.2.0 Request for Additional Information

2.2.1 On the 10th August 2015, the Applicant was requested to address the following 7 no. issues:

1. Omit house no. 13
2. Breakdown of private open space for proposed apartment blocks

3. Location and design of balconies on proposed blocks A and C
4. Shared open space for blocks A and B
5. Retention of existing trees on southern boundary
6. Details to ensure development does not adversely affect the adjoining tennis club and details of right of way between the two sites
7. Details of outdoor play area for proposed crèche

2.2.2. On the 21st of September the Applicant responded to the request with the following:

1. Provision of two dwellings at the junction of the public park and the spine road provides for defined built edge and sense of enclosure. Concerns can be addressed with substitution of house no. 22 with a standard 3-bed house, allowing the terrace of 15-21 to be move southwards by 2m, thus increasing the separation distance between no. 13 and no. 15 to 9.6m.
2. Blocks A and B redesigned to provide 12m set back, merged into one block. Reduction of 4 no. apartments. Schedule of accommodation submitted which shows that private open space meets the development plan standards as follows: for Blocks A and B is 8.9sq.m. per bedspace, block C = 31.1sq.m. per bedspace and Block D= 16.5sq.m. per bedspace. Minimum balcony sizes 6sq.m. in one bed units, 8sq.m. and 10sq.m. for three bedroom units. Drawing no.s PB-00(B) and PS-00(B) submitted with details of ground floor plans and communal outdoor space.
3. and 4 Revised site plan drawing no. PS-00(B) – private patio space for ground floor apartments in Blocks A and C, including defensible planting.
5. Proposed boundary treatment respects the adjoining land uses and is an appropriate response to the development
6. Proposed development will have no impact on the adjoining Tennis Club.
7. Proposed crèche complies with HSE requirements and County development plan.

2.2.3 Upon receipt of the FI, the Planning report of the Council was as follows:

1. no. 13 remains a concern with separation distance of 7.5m at the closest point. The layout of the garden of no. 13 is narrow and would provide compromised private open space. House no. 13 should be omitted.
2. Private open space for merged Block A/B is still below development plan standards but using average private open

space per bedspace, proposed development is acceptable. Setting back of merged block is welcome.

3. 1.8m high wall between crèche and private space for adjoining apartments. Proposed solution is acceptable.
4. Proposed paladin fencing along boundaries is not acceptable. All should proposed fencing should be replaced with timber fencing, block walls. Can be achieved by condition.
5. Netting or a controlled access gate between the public park and the tennis club can be achieved by way of condition.
6. Proposed crèche is acceptable.

Recommendation to grant subject to conditions.

3.0.0 PLANNING AUTHORITY DECISION

3.0.1 By order dated 20/10/15 a notification of decision to GRANT permission issued with 25 no. conditions. Conditions of note include:

5. Exempted development extensions de-exempted with the exception of those specifically shown as part of adaptable housing.
- 6: House no. 13 to be omitted, resultant space to be combined into no.s 12, 14 & 15.
- 8: Proposed paladin fencing to be replaced with timber fencing, block walls or combination

4.0.0 PLANNING HISTORY

4.1.0 **PL29N.236045** (DCC reg. ref. 3095/09) Ten year permission granted for educational institutional residential development on a 7.336ha site. 25 no. conditions attached. Condition no. 1 which referred to revised plans submitted to the Board, reduced the permitted number of units to 295. Other conditions required archaeological monitoring and the phasing of development.

5.0.0 NATIONAL POLICY

5.1.0 Sustainable Residential Development in Urban Areas 2009

5.1.1 The objective of the guidelines is to produce high quality and sustainable developments through key planning principles such as the provision of community facilities, efficient use of resources, amenity / quality of life issues and conservation of the built and natural environment. The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are

recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout.

5.1.2 With regard to the subject site, **section 5.9** of the guidelines states that infill development in residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The guidelines state that the design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area, i.e. views, architectural quality, civic design etc.

5.1.3 The **Best Practice Guide Urban Design Manual** that accompanies the Guidelines provides best practice advice on the practical implementation of the policies contained in the guidelines.

5.2.0 Sustainable Urban Housing Design Standards

5.2.1 These 2007 guidelines provide recommended guidance for internal design standards, storage areas and communal facilities, private open spaces and balconies, overall design issues and recommended minimum floor areas and standards. In December 2015 new Guidelines were published, updating the previous guidelines. Of relevance to the subject proposal they provide for the following development management standards:

5.2.2 Minimum Apartment Floor Areas 1 bed: 45sq.m. 2 bed: 73sq.m. 3 bed: 90sq.m. Studio: 40sq.m.

5.2.3 Private Amenity Space Minimum depth of 1.5m 1 bed: 5sq.m. 2 bed: 7sq.m. 3 bed: 9sq.m. Studio: 4sq.m.

5.3.0 Architectural Heritage Protection – Guidelines for Planning Authorities

5.1.1 This guidance, which is a material consideration in the determination of applications, sets out comprehensive guidance for development in conservation areas and affecting protected structures. It promotes the principal of minimum intervention

(Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (7.2.2).

5.1.2 With regard to the curtilage, section 13.3.1 of the guidelines state that features within the curtilage and attendant grounds of a protected structure can make a significant contribution to the character of that structure. The designed landscape associated with a protected structure was often an intrinsic part of the original design concept and, as such, inseparable from the building. Where proposals are made for alterations to a designed landscape, ancillary buildings, structures or features within the curtilage or attendant grounds of a protected structure, a site inspection should be carried out by the planning authority in order properly to understand the potential effects of the proposed development. Section 13.3.2 states that when assessing the contribution of structures or features within the curtilage or attendant grounds to the character of a protected structure, and when considering any proposals to alter such features, the following should be considered:

- a) What items of interest are there within the present curtilage of the structure?
- b) Was this the original curtilage of the structure or are there likely to be other items of interest that are, or once were, associated with this structure and which now lie beyond its curtilage but within its attendant grounds?
- c) Are there any other items of interest which, while not original, are later additions of merit?
- d) Do any items within the curtilage or attendant grounds affect the character of the main structure and help to define its special interest?
- e) Do any items within the curtilage or attendant grounds affect the character of other structures? For example, boundary walls, railings, gates and gardens can contribute to the character of other protected structures or to the character of an ACA;
- f) How are the boundaries of the site enclosed or demarcated? Are there walls, railings, fences, ditches or ha-has, gates or gate piers?
- g) Are there other buildings within the curtilage or attendant grounds? Were these other structures connected with the previous use or enjoyment of the protected structure? For example, with a country house there may be such structures as outbuildings,

coach-houses, stables, icehouses, dovecotes, follies, gate-lodges and others;

h) Are there features of interest within the curtilage or attendant grounds connected with the use or enjoyment of the protected structure? For example, a mill may have associated features such as a mill-race, a mill-pond, a tail-race, sluicegates, weirs, dams, and drying greens;

i) Are there designed landscape features within the curtilage or attendant grounds connected with the protected structure or its ancillary buildings? These may include ornamental planting, earth works, avenues, gardens, ponds, woodlands or other plantations;

j) Are there any items or structures within the curtilage which detract from the character of the protected structure? These might include, for example, later structures or planting which mar views of the structure or its relationship with other, more important, structures within the curtilage or attendant grounds. Does the opportunity exist to reverse any adverse impacts?

6.0.0 LOCAL POLICY

6.1.0 DUBLIN CITY DEVELOPMENT PLAN 2011 -2017

6.1.1 The subject site is located in an area zoned '**Z15- Institutional and Community**' which has the stated objective 'to protect and provide for institutional and community uses and to ensure that existing amenities are protected'. Within such zones, residential use is open for consideration, and childcare facilities and open space are permitted in principle. Section 15.10.14 of the plan states that where there is an existing institutional use on the site, proposals for 'open for consideration' uses shall be required to demonstrate how the proposal secures the retention of the main institutional use of the land including providing for the future expansion of the existing uses, how it secures the retention of the existing functional open space and the manner in which the proposal integrates with the surrounding Z15 lands.

6.1.2 In relation to core principles, **section 15.3** of the development plan states that there is an emphasis on the importance of Z15 lands as a resource for the city in providing educational, recreational, community and health facilities, in the maintenance and creation of sustainable, vibrant neighbourhoods and a sustainable city.

6.1.3 **Section 15.10.14** states that consideration should be given to the potential of Z15 lands to contribute to a strategic green network. **Section 15.10.14** also states that development at the perimeter of

a site that adjoins existing residential development, shall have regard to the prevailing height of existing residential development and to standards in section 17.9 in relation to aspect, natural lighting, sunlight, layout and private open space, and in section 15.9 in relation to the avoidance of abrupt transitions of scale between zonings.

6.1.4 In relation to **development within the curtilage of a protected structure** section **17.10.02** states that in considering applications for development within the curtilage of a protected structure, the planning authority shall have regard to the following:

- The protected status of the structure and the need to protect its special character.
- The various elements of the structure which give the protected structure its special character and how these would be impacted on by the proposed development.
- Proximity of any new development to the main protected structure and any other buildings of heritage value.
- The design of the new development, which should relate to and complement the special character of the protected structure.

An insistence on quality will be a foremost consideration when assessing proposals for development within the curtilage of protected structures, with particular emphasis on siting, building lines, proportions, scale, massing, height, roof treatment and materials. This does not preclude innovative contemporary buildings which can contribute to the richness of the historical context. Materials shall be appropriate to the locality and sympathetic to the existing buildings. Development proposals should include an appraisal of the wider context of the site or structure. This appraisal should examine the visual impact and design of the proposal and should address issues including the grain of historic settings, sensitivity to scale and context, views and the design of innovative quality architecture which would complement the setting of the protected structure. The planning authority will seek to retain the traditional proportionate relationship in scale between buildings, their returns, gardens and mews structures, and shall also seek to retain gardens and mature trees (those in good condition) which contribute to the character of a protected structure, as soft landscape.

6.0.5 Section 17.11 of the development plan outlines the Council's policies on **development on archaeological sites and in zones of archaeological interest**. The development plan states that in

order that the City Council's policy on archaeology is implemented, the following will apply:

- When considering planning applications in the Zone of Archaeological Interest and on sites of known archaeological interest, the planning authority will have regard to the view and recommendation of the National Monuments Service, DoEHLG and other interested bodies
- Prior to lodgment of a planning application, sites within Zones of Archaeological Interest shall be subject to an archaeological assessment, prepared in consultation with the City Archaeologist
- The applicant shall employ a qualified archaeologist to carry out and report on any necessary site investigation works.

6.0.6 Policies of note in the development plan include:

Policy QH18: To ensure that new houses provide for the needs of family accommodation and provide a satisfactory level of residential amenity. All new houses shall comply with the Residential Quality Standards.

Policy QH19 To ensure that new housing development close to existing houses reflect the character and scale of the existing houses unless there are exceptional design reasons for doing otherwise

Policy SC13 To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city; which are appropriate to their context, and which are supported by a full range of community infrastructure such as schools, shops and recreational areas, having regard to the safeguarding criteria set out in Chapter 17, Development Standards including the criteria and standards for good neighbourhoods; quality urban design and excellence in architecture. These sustainable densities will include due consideration for the protection of surrounding residents, households and communities

Policy SC14 To promote a variety of housing and apartment types which will create both a distinctive sense of place in particular character areas and neighbourhoods, and coherent streets and open spaces

7.0.0 GROUNDS OF APPEAL

7.1.0 First Party Appeal against Condition

7.1.0 An agent for the First Party has submitted an appeal against condition no. 6 of the Councils decision to grant. The grounds of the appeal can be summarised as follows:

- It is submitted that the omission of house no. 13 is not required to address the concerns of the Planning Authority.
- It is not uncommon to have separation distances of less than 22m in contemporary housing layouts of higher densities.
- The layout of development was revised in response to the request for further information which allowed for greater separation distances between no. 13 and no. 15.
- It is not clear how the residential amenity of the proposed dwellings would be compromised.
- The omission of house no. 13 would result in a unsatisfactory streetscape – diagrams submitted. The active façade would be replaced with a 16.5m blank wall at a prominent point. If the resultant space becomes open space, it leaves an unsupervised space enclosed by a 16.5m unanimated wall. If the resultant space is incorporated in the surrounding gardens, the 16.5m wall will create an unsatisfactory street edge. It is submitted that these solutions are a reduction in the quality and coherency of the layout and streetscape.
- The Architects Design Statement submitted with the application explains the rationale behind the scheme. It is clear from pages 13 & 16 of the scheme that units 13 & 14 perform an important transitional function within the layout, acting as intermediate built frontages and a link between the terraces of houses at the park and those terraces along the new distributor road. The dwellings also provide passive surveillance of the car park at ChildVision.
- The development was revised at FI stage to allow for the retention of house no. 13 and increased separation and garden sizes.
- It is submitted that this is sufficient to address the concerns of the Planning Authority and remains the most appropriate design proposal.
- House no. 13 and 15 are a type 3 dwelling: wide frontage two storey three bedroom house with habitable rooms to the front. House no. 14 is a type 4 house but is also a wide frontage two storey three bedroom house with habitable rooms to the front. Rear gardens for the dwellings are as follows: 13: 84.9sq.m., 14: 78.9sq.m., 15: 89.1sq.m. It is noted that these are significantly in excess of the development plan requirements.

- It is submitted that the concerns of the Council did not acknowledge that no overlooking and no overshadowing will occur.
- The angled orientation of no.s 13 and 14 will result in good quality sunlight and daylight.
- Notwithstanding that the separation distances are less than the traditional 22m, the units in question comply with development plan standards for design, orientation, car parking, open space and impact on adjoining amenities. Chapter 17.9.1 of the development plan provides for the relaxation of separation distances where the design approach preserves the amenities and privacy of adjacent occupiers, as is the case in the subjects proposal.
- Unit 13 provides for an optional rear extension. Should the Board agree, this element can be omitted by way of condition.
- The Board is requested to allow for the retention of unit no. 13.

7.2.0 Third Party (Donnelly) Appeal against Decision

7.2.1

The Donnelly's of no. 46 Griffith Court state that they are an immediate neighbour of the subject site and wish to appeal against the decision of DCC to grant permission. The grounds of the appeal can be summarised as follows:

- The trees to be removed are in the appellants garden and to remove them is contrary to protocol 1, article 1 of the Human Rights Act.
- House no.s 73 and 74 face directly into the appellants house / garden. The appellants patio would be severely overlooked. This area is a cul-de-sac and may accommodate unsocial behaviour.
- House no.s 75,76 and 77 will overlook the appellants dwelling to an even greater degree due to the attic conversion.
- The boundary is unclear and it is not a straight line. A solid 8 foot high wall inside St Josephs which would leave the hedgerow, trees and wildlife intact would address a lot of issues.
- Excavation works may impact the stability of the appellants house.
- The appellants have security concerns about their property being exposed while the development is ongoing.
- Site work should not be allowed to occur on a Saturday or at least not before 10am on a Saturday. Measures to control dust should be required.
- The removal of hedgerows and trees will impact wildlife.

- Grace Park Road is very busy and the proposed entrance to the site is not suitable. The proposed development will add to congestion.

7.2.2 The Appeal is accompanied by Appendix 1, signed by Gerard Burke of 45 Griffith Court. The additional issues raised in the appendix are:

- The proposed removal of trees may affect the annual migration of Barnacle Geese to the area.
- Trees to be removed should be replaced with mature saplings.
- Excavation levels should be clarified, to avoid overlooking.
- The proposed adaptable family rooms may reduce the minimum separation distances if people build over the family rooms.
- The proposed apartment block should be reduced to 3 storey.
- Details of the sewage line wayleave should be clarified.
- Attic conversions should include windows to the front to avoid overlooking.
- Street lighting should not overspill on to adjoining properties.

7.3.0 **Third Party (McDonagh) Appeal against Decision**

7.3.1 The appellant is the proprietor of Dublin Tennis Centre on the grounds of Ierne Social and Sports Club. He wishes to appeal the decision of DCC to grant permission. The grounds of appeal can be summarised as follows:

- The attraction of playing in Ierne is the idyllic setting with mature trees, real and artificial grass. The loss of these trees would be detrimental from a visual and a privacy perspective. It would lead to a loss of business and revenue, the quality of tennis and the working environment of the club.
- The proposed apartments should be set back further into the site. Mount Pleasant Tennis club is an example of the co-existence of mature trees and houses
- A detailed flora and fauna survey has not been carried out. The Council are not complying with their policy to preserve existing woodland.
- The Ierne tennis courts must be protected as being only 1 of 2 on the north side. The impact of shadow on the courts was not assessed. The early winter sun would be blocked by the apartments and would result in two of the artificial courts not thawing fully. Grass court temperatures would be lowered. Decreased air circulation would increase the chance of disease and moss build up, which is costly to control.

- The proposed development would hinder the future development of the tennis courts in terms indoor courts, flood lighting etc.
- The proposed apartment blocks should be moved to prevent overlooking of the courts from balconies / windows. The club house has a viewing balcony overlooking the courts. There are no balconies on the surrounding houses in Grace Park Gardens.
- Noise levels from the proposed crèche will interfere with the club. The proposed hedge planting is not sufficient to ameliorate the noise. Tennis summer camps are very noisy and are not appropriate beside a crèche.
- There is a century long entrance / right of way between the tennis club and St Josephs. A controlled access is welcome but questions of funding must be answered.
- The 2.4m high perimeter fence proposed in place of the existing 3.48m fence between the club and the apartment blocks is inadequate.
- Noise issues and the proposed hours of work will disrupt coaching activities.
- The proposed development would curtail future activities of the Tennis Club leading to financial losses.
- Grace Park Road is already congested. The proposed development will increase this congestion and hinder clients getting to lerne
- The balance between housing and environmental needs have not been met with the proposed development.

7.4.0 Third Party (Ierne Social & Sports Club) Appeal against Decision

7.4.1 The Ierne Sports & Social Club is located to the south of the subjects site. The grounds of the third party appeal of the Council's decision to grant permission can be summarised as follows:

- The proposed development, though less dense than the permitted development has a greater effect on the club, the joint boundary, the privacy of the tennis courts, the mature trees and wildlife on the site and the potential for future improvements of the site.
- A steel post and chain link fence between the club and the proposed apartment blocks is not sufficient. The boundary should be a brick wall. Condition no. 8 of the Councils decision should be strengthened.
- If public access to the gardens to the rear of the apartments will be facilitated a brick wall is required.

- Ball-stop netting of several feet on top of the proposed 2m fence is required.
- The proposed apartment blocks should be deleted in order to retain the well-established trees on the joint boundary.
- The proposed development will reduce the peace quiet and tranquillity the club has enjoyed since the 1930's.
- The proposed development may hinder the future development of the tennis club. The subject developer should be responsible for measures to control nuisance from tennis balls entering the development. This should be confirmed in a condition.
- A condition should be added which prevents the development hindering future development of the Tennis club, including floodlights and / or a covered court.
- Future floodlight applications should not be limited to or confined to any greater extent than the current 23.00 approval.
- The exact boundary between the two properties should be clarified prior to the commencement of development.
- The existing trees should be retained to safeguard against overlooking of the courts by the apartment balconies / terraces. Child protection guidelines require that play areas should not be overlooked by apartment blocks.
- Serious dust may be cause by dust, gravel etc. during the construction phase.
- Due to the elevated ground levels in St Josephs, the courts and pitch & Putt course may be more susceptible to flooding.

8.0.0 OBSERVATIONS

8.1.0 Griffith Court Residents Group

8.1.1 The grounds of the Observation can be summarised as follows:

- Condition no. 6 of the Council's decision should be amended to provide for the omission of house no.s 13 and 14, with the resultant space becoming a viable open space. House no.s 73 and 74 should be replaced with a single dwelling facing the distributor road.
- The proposed development materially contravenes the zoning objective of the development plan as it does not provide for community and institutional uses. The proposed development destroys existing uses on site and affects the recreational community uses surrounding the site.
- The proposed development fails to include setbacks or make provision for the green route identified in the draft development plan 2016-2022.

- The proposed development with less than the required 25% public open space is a contravention of the development plan and the draft development plan.
- The proposed development does not protect the institutional amenities of the area.
- The Board is requested to refuse permission.

9.0.0 RESPONSES

9.1.0 Planning Authority Response

9.1.1 No further comment to make.

9.2.0 First Party Response

9.2.1 The First Party response to the three third party appeals can be summarised as follows:

9.2.2 Tree Removal

- The majority of trees along the southern boundary will be retained. The retention of trees to the south of the amended apartment block would not be appropriate as they contain over-mature trees up to 19m in height. They may compromise the residential amenity of the apartments if they begin to decline. They will be replaced with semi-mature native trees and a 2.4m high solid fence.
- No trees within the boundary between the site and no. 46 Griffith Court will be removed. The existing hedge at this location is to be removed and will be replaced with a 2m high solid fence.
- The applicant is happy to comply with condition no. 8 to provide a 2.4m high brick wall or a solid fence along the southern site boundary. The applicant shall install netting to prevent tennis balls entering the site.
- The communal open space to the rear of the apartment block will be for apartment residents only.
- Details of the access between Ierne and the proposed public park can be agreed by way of condition.
- The applicant is happy to agree to a wall in place of the proposed concrete post and panel fence along the southern boundary pending further details of the exact boundary and the existing surface water sewer at this location.
- The proposed 2.4m high boundary, planted beech hedge, 30 no. semi-mature trees and significant set back from the boundary is sufficient to prevent any unreasonable impact to the tennis courts or recreational facilities.

- The proposed apartment block AB is located to the north of the courts and so there will be no overshadowing or loss of daylight. The scale of the building and the extent of the setback means there will not be adverse impacts on air circulation.
- Noise generated by the crèche will be in line with general noise levels in urban residential areas. The proposed semi-mature trees, 2.4m fence and 1.8m high beech hedging will act as an acoustic buffer .
- The applicant is willing to comply with the conditions set by the Council relating to hours of work and construction activity. The proposed development will not hinder the operation / development of the sports club.
- House no.s 75, 76 and 77 are c. 37m from no. 46 Griffith Court and therefore will have no material impact on the residential amenity of no. 46. House no.s 73 and 74 will be separated from no. 46 by a cul-de-sac and a 2m high boundary wall. The proposed wayleave for underground foul and surface water sewers will not provide any pedestrian linkages.
- The development plan promotes safety and security of open spaces through passive surveillance. A boundary of mature trees, hedging and fencing separates the sports club and the apartment block. Apartment blocks overlooking areas where children are present can be found across Dublin.
- A transport statement was submitted with the application. The Council's transport department did not raise any objections to the proposal. The applicant is happy to comply with the transport related conditions attached to the decision.
- The construction management plan submitted with the application addresses the issue of noise, dust construction hours etc. and was deemed acceptable by the Council. The applicant is happy to comply with all construction related conditions attached to the decision.
- The Environmental Services and Flood Risk Assessment reports submitted with the application comprehensively addressed the issues of surface water drainage and flood risk. There shall be no undue impact on adjoining properties.
- The separation distance of c.37m between the proposed dwellings and no. 46 Griffith Court is sufficient to prevent undue impact on the stability of no. 46.
- The Outline Construction Management Plan provides for the site to be fully secured from the public, with controlled access and egress points preventing unauthorised entry. A robust, safe and secure boundary with Griffith Court will be erected at the earliest

opportunity. The cul-de-sac adjoining house no.s 73 and 74 will be supervised by the dwellings.

- A Landscape Masterplan, Aboricultural Assessment and Method Statement, Ecological Impact Assessment and AA screening report were submitted with the application, addressing the impact of the proposed development on wildlife. The proposed development will not result in any significant residual impacts, nor will there be likely significant impacts on a Natura 2000 site.

10.0.0 ASSESSMENT

10.0.1 On reading of all documentation submitted with the appeal, I consider the issues to be:

- Principle of the proposed development
- Condition no. 6 – First Party Appeal
- Urban Design / Layout
- Architectural Context
- Site Boundaries
- Landscaping
- Overlooking / Overshadowing
- Public Open Space and Strategic Green Route
- Appropriate Assessment

10.1.0 Principle of the Proposed Development

10.1.1 The principle of residential development on the subject site was established under the planning permission ref. PL29N.236045 which was granted by the Board in 2010. The permitted development on a site of 7.33ha comprised renovation / refurbishment of the existing St Joseph's building, a series of apartment blocks ranging up to six storeys high and a series of houses in terraces. This permission for a total of 295 residential units is valid until August 2020.

10.1.2 The subject proposal differs from that permitted in two ways: the application site of 4.97ha no longer includes the buildings associated with ChildVision (c.2.8ha), being only the greenfield portion of the overall landholding. Secondly the density of the proposed development at 48 units per hectare is significantly less than the permitted 70 units per ha.

10.1.3 Residential use is open for consideration on Z15 lands. As noted above, section 15.10.14 of the plan states that where there is an

existing institutional use on the site, proposals for 'open for consideration' uses shall be required to demonstrate how the proposal secures the retention of the main institutional use of the land including providing for the future expansion of the existing uses, how it secures the retention of the existing functional open space and the manner in which the proposal integrates with the surrounding Z15 lands.

10.1.4 In the planning statement and the Masterplan submitted with the application, the first party provides a comprehensive breakdown of the services provided by and facilities available to ChildVision in the various buildings on the campus. The Masterplan identifies the future development potential of the campus, on an incremental basis. In relation to the relationship of the ChildVision campus with the proposed redevelopment of the subject site, the Masterplan states that future residents will be encouraged to use the public facilities of ChildVision through existing gateways and paths. In addition 27 no. car parking spaces for ChildVision are included in the subject development, replacing the existing spaces which will form part of the proposed development. A trekking route from the ChildVision Stables through the northern end of the subject site to the playing fields to the north is proposed as ChildVision currently use the southern section of the site (approx. location of proposed public park and apartment block AB) as a trekking route.

10.1.5 It is considered that the Masterplan adequately addresses the requirements of section 15.10.14, in that the existing ChildVision services will be unaffected, future development is provided for and the two facilities displaced by the proposed development will be replaced in alternate locations. I am satisfied that the proposed development complies with the additional requirements of 'open for consideration' uses and is in compliance with the zoning objective of the subject and adjoining sites.

10.1.6 Subject to compliance with other planning considerations, the principle of the proposed development is acceptable.

10.2.0 Condition no. 6 – First Party Appeal

10.2.1 The First Party has requested the Board to remove condition no. 6 of the Council's decision. Condition no. 6 states:

"Prior to the commencement of development, the Applicant is requested to submit and agree in writing with the Planning Department, revised plans, drawings and particulars showing the omission of House No.13 and the resultant space combined with

the rear private open provision to No's. 12, 14 & 15 or transformed into further public open provision. Reason: In the interests of residential amenity and orderly development."

- 10.2.2 House no.s 13 and 14 are proposed at the northern end of the terrace to the east of the proposed public park. In response to the Council's concerns about the configuration of the dwellings and their gardens, the first party changed the house type of southern most house (no. 22) to allow the terrace to be relocated northwards by 2.1m. Thereby increasing the garden depth of no. 14 and the separation distance between the rear of no. 13 and the gable of house no. 15 to 9.5m.
- 10.2.3 The Planning Officer of DCC refers to the separation distance between house no. 13 and the corner of no. 15 as causing a detrimental impact on the residential amenity of no.s 12 and 15. In addition, the Planning Officer states that the narrow garden is considered to compromise the residential amenity of no. 13. The First party has rejected those arguments, stating that the omission of no. 13 would result in a large unsupervised open space or an unduly long unanimated boundary wall. A third party observer to the appeal has requested the Board to consider omitting not only no. 13 but also no. 14 and using the resultant space as a pocket park.
- 10.2.4 I do not accept the first party argument that the omission of no. 13 will result in an unduly long blank façade and that this will damage the streetscape at this junction. The rear garden of no. 14 has an approx. 14m long blank garden wall as one turns into the terrace of house no.s 15 to 22. Similarly house no.s 32, 38, 58 and 64 have blank rear boundary walls of approx. 11m at the start of the second and third rows of dwellings. The impact on the streetscape of blank walls at these locations is exactly the same as that at the junction in question. As one turns from house no. 12 towards house no.s 13 and 14, one will be faced with a rear boundary wall and a small area of open space. The length of the wall will cause little difference in the significance of the impact.
- 10.2.5 Notwithstanding the above, the proposed dwellings provide an important function in creating a strong built edge at this location. The step down from the three storey houses of no.s 1 to 12 to the two storey houses in the rest of the site essentially occurs at house no.s 13 and 14. Were this space to be left unaddressed and open to the rear gardens of house nos. 12 and 15, the visual impact and

degree of passive surveillance would suffer. It is acknowledged that the awkward configuration of the gardens for dwellings no. 13 and 13 is not optimum however, this is not unusual in a relatively dense urban location. The quantum of open space provided to both dwellings is in excess of the minimum standards. I note that the rear windows at first floor in no.s 13 and 14 are not habitable rooms and face the blank gable wall of no. 15 at an oblique angle.

10.2.6 It is noted that a number of other proposed dwellings – such as house no.s 117,118,125,109 and 110 have similarly configured relationships with the surrounding dwellings.

10.2.7 Should the Board be minded to grant permission, it is recommended that the Council's decision to omit house no. 13 be overruled.

10.3.0 Urban Design / Layout

10.3.1 The layout of the proposed development comprises

- an apartment block (AB),
- three centrally located terraces back to back, served by a link road off the main spine road running along the northern boundary of the site,
- one of which terminates with apartment block C,
- a long straight row of four terraces of houses along the eastern boundary and served by the perpendicular end of the spine road
- and lastly a smaller more mixed group of smaller terraces, some semi-detached dwellings and
- apartment block D.

10.3.2 The development provides a single vehicular entrance off Grace Park Road and a second pedestrian entrance adjoining the existing Gate Lodge entrance which will be closed to vehicular traffic. Although it is not clear from the site plan drawing, the pedestrian access to the ChildVision site to the north, adjoining the church building will be retained.

10.3.3 I have concerns about the overall layout of the development. It is acknowledged that being in z15 lands, a single public open space must be provided rather than a number of smaller pocket parks and therefore this constrains the site somewhat. However, the opportunity to introduce an innovative layout that responds to the

site as per the Sustainable Residential Development Guidelines and the Urban Design Manual appears regrettably to have been missed. The Guidelines and the Manual recommend that creating a permeable network of routes in a site that will help to create a successful layout. Cul-de-sacs are to be discouraged as they tend to create poor permeability. The proposed site does not need to use cul-de-sacs to prevent rat-running as traffic entering the site will only do so to access the development. The proposed development is essentially backland / landlocked with only one vehicular entrance and two pedestrian entrances, both off Grace Park Road. This results in the entire development being one large cul-de-sac with a series of smaller cul-de-sacs within. Whilst this may be as a result of the constraints of the site, the development appears dominated by the road layout, with houses slotted into the left over space, rather than the more holistic approach of designing a high quality residential environment that is served by roads.

- 10.3.4 The central spine road runs from the western entrance to a perpendicular spine road running along the eastern boundary. As the roads within the development will have a speed limit under 60kph, DMURS will not apply to the development, nonetheless, the principles of the manual represent best practice. There are a number of strong elements of the layout as espoused in both DMURS and the Design Manual. For example the on-street car parking (albeit perpendicular parking which is contrary to section 16.1.6 of the development plan), no front gardens, and active street frontage which allows active surveillance, all aid self-regulation of streets which ultimately will help manage driver behaviour and promote safer streets for both pedestrian and vehicular traffic. The less favourable elements of the design are the long straight stretches of road that provide little natural barrier to the slowing down of traffic, provide little opportunity for permeability and create a monotony that does not aid a sense of place.
- 10.3.5 Of particular concern is the eastern spine road which runs from the northern to the southern end of the site, a two lane carriageway running completely straight for a length of approx. 230m. Traffic speeds should be affected by restricting forward visibility of the driver so they are not encouraged to pick up speed. There are no curves, bends or breaks in either the roads or the building line that would naturally force vehicular traffic to slow down, inadvertently transferring risk to more vulnerable road users. Priority appears to have been given to vehicular traffic instead of pedestrians. I consider this to be contrary to section 16.1.3 of the development

plan which recognises the competing needs of streets and the hierarchy of users in design decisions as follows: pedestrians and those with mobility impairment, cyclists, public transport vehicles, service vehicles, private vehicles.

- 10.3.6 The building line of the houses facing the eastern spine road is unbroken for the entire length of the site – a total of 33 almost identical houses in one long line. On this point, I note section 16.1.8 of the development plan which advises that blocks of greater than 100m in length should be avoided in order to promote permeability and walkability.
- 10.3.7 Assessing the proposed development against the best practice guide for sustainable residential development in urban areas, it is considered that the proposed layout does not create people friendly streets and spaces as the development is not pedestrian dominated. Vehicle movement within the site is not controlled by urban design as the road layout is more orthogonally than organic. Desire lines throughout the site follow vehicle traffic rather than pedestrian leading to streets that are roads rather than places.

10.4.0 Architectural Context

- 10.4.1 The main structure on the site is Drumcondra Castle, the central building in the ChildVision / St Joseph's Campus. The castle and the surrounding buildings are not part of the application site but due to the open boundary between the two halves of the site, the two will read as site neighbours.
- 10.4.2 Regarding development in the curtilage of a protected structure the Architectural Heritage Protection guidelines require consideration of the affect of items in the curtilage or attendant grounds on the character and / or special interest of the main structure. The guidelines note that boundary walls, railings, gates and gardens can contribute to the character of protected structures and recommend that this be considered in assessing a development. I note the Architectural Heritage Impact Assessment submitted with the application which states that over the years the setting of Drumcondra Castle (the main building on the campus) has been gradually reduced and hemmed in by surrounding land uses and buildings. The report states that the many changes and additions to the site have taken away any semblance of order, leaving no sense of the once eminent status of the Castle. The road running to the south of the castle is stated to further reduce the status of the castle, severing it from its lands and creating a negative impact.

The reduction of open space surrounding the castle, the construction of rear garden boundary walls abutting or adjoining building or structures of architectural heritage, are also raised as areas of concern. The concluding remarks of the report are that the construction of the proposed development is a significant loss and a negative indirect impact on heritage.

10.4.3 At no point does the development address the institutional use and rich architectural history on the site. The two sections of the site read as two entirely distinct entities, without reference to each other. The background of the protected structures on site and context of the open landscape in which they currently sit appears to have been entirely ignored. The proximity of the proposed development to the existing buildings to be retained and the lack of boundary between them, is such that the two functions of the site will read very much as two uses within one site.

10.4.4 It is regrettable that the proposed development has chosen not to integrate with and acknowledge the rich and varied buildings to be retained on site. It is considered that the proposed development is not in accordance with policy QH6 of the development plan which seeks to promote the development of underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area. Nor is the proposed development in accordance with policy NC2 of the development plan which seeks to promote neighbourhood developments which build on local character as expressed in historic activities or buildings, materials, housing types or local landscapes.

10.5.0 Site Boundaries

10.5.1 The boundary of the subject site and its adjoining neighbours causes concerns for third party appellants at two locations – the southern boundary with the Ierne Sports Club and the eastern boundary with Griffith Court.

10.5.2 Eastern Boundary with Griffith Court: The eastern boundary of the subject site adjoins the rear gardens of the dwellings in the residential cul-de-sac Griffith Court. It is proposed to construct a series of 4 no. terraces of two storey dwellings with optional attic conversions and optional ground and first floor extensions. The depth of rear gardens varies from 9 to 11m. The dwellings in Griffith Court have more generous rear gardens with distances of approx.

17/18m to their rear boundaries. At all points along the boundary, due to the length of the gardens in Griffith Court, the distance between directly opposing first floor windows exceeds the required 22m.

10.5.3 Drawing no. Ca.09-DR-201 shows no planting proposed for the eastern boundary while drawing no. Ca.09-DR-202 shows a 2m concrete post and concrete / timber panel fence proposed along the eastern boundary. This is relatively standard residential development boundary treatment. The applicant has indicated a willingness to engage with residents to provide a concrete wall if further surveys permit such construction. Should the Board decide to grant permission, a condition requiring agreement with the Council can be added.

10.5.4 The southern boundary between the subject site and the Ierne Sports Club has been raised as an area of concern by two of the third party appellants. According to the appellants, the removal of the existing trees on the boundary will reduce the privacy and visual amenity of the club, will damage the courts and will hinder the future development of the club. One of the appellants has requested that the Apartment block AB be set back further into the site, the other that the block be omitted altogether. Both appellants have requested site boundary treatments that prevent tennis balls etc. entering the subject site from the sports club.

10.5.5 Following a request for further information the proposed apartment blocks A and B were merged into a single block, with a reduction of 4 no. units. Block AB is set back approx. 12m from the southern boundary. Two of the existing trees (no.s 53 and 56) are to be retained with additional planting of semi-mature trees inside a new 2.4m paladin fence. The applicant has indicated willingness to liaise with the sports club on the most suitable boundary treatment for the boundary if permission is granted. The issue of tree retention along the southern boundary is discussed in greater detail below.

10.6.0 Landscaping

10.6.1 I note that the site plan / layout shown on drawing no. St Josephs-AIA-04-15 does not match that shown on the rest of the drawings submitted with the application.

10.6.2 The current eastern boundary is comprised of a hedge at the south-eastern corner and seven groups of trees. The Arboricultural

Implication Assessment and Method Statement submitted with the application states that the hedge and the groups of trees along the eastern boundary are of poor structural form, due to redevelopment from previous cuts. Drawing no. St Josephs-AIA-04-15 shows the removal of both the hedge and the groups of trees. Appendix 1 of the report states that the hedge is beyond improvement and unsuitable for retention as it is mechanically poor. It notes that bramble and ivy have suppressed and overwhelmed much of the original hedge. Of the 7 no. groups of trees to be removed, five are sycamore and two are ash. Each of the groups of trees is described as being a multi-stump community regenerated from previous felling's. Structural form is stated to be poor.

- 10.6.3 In relation to the southern boundary the report states that pruning and cutting back of the trees along the southern boundary has occurred to reduce trespass. Drawing no. St Josephs-AIA-04-15 shows the majority of trees along the western half southern boundary being retained, while those in the approx. location of the apartment block to be removed.
- 10.6.4 I note that the Aboriocultural report does not recommend the removal of trees no.s 49 to 53 but recommends their cleaning, removal of ivy and review. Likewise the first report of the Parks & Landscape Services of DCC states that they objected to the removal of tree no.s 49-52 and 57-60 on the grounds that they form a continuous tree belt along the southern boundary and have a high amenity value. In response to their concerns, the applicant proposed two options (pg. 6 OMP Response to request for Further Information), highlighting their preference for option A (removal of trees). In response, the second Parks & Landscape services report dated 07.10.15 recommended the removal of tree no. 52 and the retention of tree no.s 50,51,56 and 57.
- 10.6.5 The line of trees that currently runs roughly north-south in the centre of the site (in the approx. location of the central terrace of houses) comprises 27 no. trees (no.s 61 to 99 approx.) The trees are described as ranging from young and vigorous to aged but suitable for retention. None of the trees are recommended for removal, yet with the exception of no. 65 all are shown for removal on drawing no. St Josephs-AIA-04-15. Given that, as is the case in the southern most corner, the trees lie along the proposed location of dwellings, one can surmise that the trees are being removed solely to facilitate development, rather than for an aboriocultural reason. I note the Architectural Heritage Impact Report submitted

with the application criticises the removal of this 200 year old field boundary. Further, sections 17.2.2 and 16.2.2 of the development plan require that existing trees and vegetation should be retained where possible and developments on institutional lands, proposal must take cognisance of the existing landscape and character. I am not satisfied that justification for the removal of healthy trees that contribute to the setting of a protected structure, has been demonstrated in this instance.

10.7.0 Over shadowing / Overlooking

10.7.1 As noted above, the proposed apartment block AB was redesigned following a request for further information. The proposed block was set back to allow for a separation distance of 12m from the southern boundary. Given that the use to the south of the site is non-residential and primarily occurs during daylight hours, it is considered that this separation distance in combination with the proposed 2.4m fence is sufficient to avoid undue impacts on the sports club. The club is located in a relatively built up urban area, where residential development in close proximity is the norm and to be expected.

10.7.2 Given that the proposed apartment block is located to the north of the sport grounds, any overshadowing of the grounds is unlikely to be of significance.

10.7.3 The Planning Statement submitted with the application states that the 22m separation distance between directly opposing first floor windows is exceeded but where innovative design solutions are proposed in non-directly opposing windows, it is reduced. The terrace of three storey houses adjoining the proposed public park, is of house type 10, with bedroom and bathroom windows on the eastern elevation. These windows are approx. 17m from the rear elevation of the houses on the eastern side of the terrace – house no.s 15 to 22. House no.s 15 to 22 are house type 3: two storey three bed dwellings with an option to extend at ground floor. The rear elevation of house type 3 comprises three narrow windows at first floor, illuminating an en-suite, a stairwell and a bathroom. Presumably each window could be opaque, to avoid any direct overlooking from the opposing dwellings. Whilst this innovative design solution addresses the issue of overlooking of opposing windows, it does not address the issue of overlooking of private open spaces. The three storey dwellings have a rear garden depth of just over 9m while the two storey wide plan houses have a rear garden depth of only 7m. The average separation distance

between the dwellings all along this terrace is c.17m. This is replicated in the two terraces to the east, although the impact is somewhat mitigated by having two storey dwellings on both sides and non-habitable rooms to the rear of one of each set of the opposing houses.

10.7.4 The 22m standard for opposing windows is long established as a minimum not only to prevent direct overlooking between windows but also to afford a degree of privacy to private gardens. Whilst a degree of flexibility in providing the traditional 22m is provided for in section 7.4 of the Guidelines for Sustainable Residential Development in Urban Areas and as reflected in section A2 of chapter 17 of the development plan, it requires a development to clearly demonstrate that it is designed in such a way to preserve amenity and privacy. My concern with the 22m being breached throughout the development is that it is not an occasionally used reaction to a specific site constraint (as discussed in section 9.2 above) or an exception to the norm, but is in fact the standard throughout the whole development. I am not satisfied that a rear garden depth of 7-9m is sufficient to protect the residential amenity of future residents of the dwellings. In particular, it is considered that being approx. 17m from the rear of a three storey dwelling, would result in a degree of being overlooked which would ultimately result in compromised privacy of the gardens.

10.7.5 As noted above, I have concerns about the layout of the proposed development. It is considered that a more innovative approach to the layout of the houses could have created greater separation distances for the majority of the proposed dwellings.

10.7.6 The issue of rear garden length and separation to the nearest dwelling was raised by the Council, notwithstanding that it was specific to house no. 13. I am satisfied that the Board can address this matter without considering it a new issue.

10.8.0 Public Open Space and Strategic Green Route

10.8.1 Development plan requirements for public open space on z15 lands are 25% open space and/or the provision of community facilities. The subject development proposes a public park (9036sq.m.) to the south of the site and an area of open space (1354sq.m.) south of the protected structure Drumcondra Castle. Other open spaces include a 'shared private space' of 200sq.m. adjoining block D to the north and a 'shared private space' of approx. 380 sq.m. around

the oak tree no. 65, to the west of block C. As these spaces are not intended as public open space, they cannot be included in the calculation of public open space. The proposed development provides 1.03ha of public open space which equates to approx. 21% of the overall site of 4.97ha. This does not comply with the development management standard of the development plan. If the additional private spaces are actually proposed to be public accessibly, the quantum of open space proposed rises to 22% of the subject site, which still falls short of the development plan requirement.

10.8.2 The applicant makes reference to the 1.54ha playing fields to the north of the subject site, which facilitate the development plan standard of 25% being achieved. The playing fields to the north of the site will be separated from the proposed development by a 1.1m railing (drawing no. Ca.09-DR-202 refers) and are indicated as a replacement trekking arena for ChildVision. I question their availability as active recreation space for the residents of the proposed development.

10.8.3 Section 6.4.1 and 15.3 of the development plan provide for the progress of a strategic network of green corridors across the city area. Fig 10 (appended) shows the proposed and existing routes. The subject site is not located along any of the existing or proposed routes.

10.9.0 Appropriate Assessment

10.9.1 An AA screening report was submitted with the subject application. The report concludes that there is no likelihood of any significant effects on any European Sites arising from the proposed development, either alone or in combination with any other plans or projects. The report notes that there are no Annex 1 habitats on site nor do any direct hydrogeological links to a Natura 2000 site exist. The possibility of contaminated surface water draining to Dublin Bay via the hydrological connection is discussed and discounted by virtue of the distance and proposed best practice construction measures on site. The report notes that the site will be served by the Ringsend WWTS which has in the past operated above capacity. Notwithstanding this, the report states that no significant effects from the proposed development are predicted. The Bay is classed as unpolluted. The findings of the screening report are considered reasonable.

- 10.9.2 The subject site is within 1.4km of the South Dublin Bay & River Tolka Estuary SPA (004024) and just over 4km from both the South Dublin Bay cSAC (000210) and the North Dublin Bay cSAC (000206).
- 10.9.3 The **South Dublin Bay & Rover Tolka Estuary SPA** (004024), according to the NPWS, comprises a substantial part of Dublin Bay. It includes virtually all of the intertidal area in the south bay, as well as much of the Tolka Estuary to the north of the River Liffey. A portion of the shallow bay waters is also included. In the south bay, the intertidal flats extend for almost 3 km at their widest. The sediments are predominantly well-aerated sands. The sands support the largest stand of *Zostera noltii* on the East Coast. The landward boundary is now almost entirely artificially embanked. Sediments in the Tolka Estuary vary from soft thixotropic muds with a high organic content in the inner estuary to exposed, well aerated sands off the Bull Wall. Qualifying interests for the site are as follows: Light-bellied Brent Goose, Oystercatcher, Ringed Plover, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern and Arctic Tern. The conservation objectives for the site are to maintain the favourable conservation condition of each of the qualifying interests, based on the population trend and distribution of each. For the most part, the target is to see the long term population stable or increase with no significant decrease in the range, timing or intensity of the use of the designated areas. It is considered that given the proximity of the subject site to the designated site and the scale of urban development in that buffer zone, that the likelihood of significant impact on the conservation objectives of the site is negligible.
- 10.9.4 The **South Dublin Bay cSAC (000210)** extends from the South Wall at Dublin Port to the West Pier at Dun Laoghaire, a distance of c. 5 km. At their widest, the intertidal flats extend for almost 3 km. The seaward boundary is marked by the low tide mark, while the landward boundary is now almost entirely artificially embanked. Several permanent channels exist, the largest being Cockle Lake. A number of small streams and drains flow into the site. The qualifying interest for the South Dublin Bay cSAC is Mudflats and sandflats not covered by seawater at low tide. Four conservation objectives outlined to maintain the favourable conservation status of the mudflats and seaflats are identified by the NPWS, as follows:
- 1) The permanent habitat area is stable or increasing, subject to natural processes.
 - 2) Maintain the extent of the *Zostera*-dominated

community, subject to natural processes. 3) Conserve the high quality of the *Zostera*-dominated community, subject to natural processes and finally 4) to conserve the following community type in a natural condition: Fine sands with *Angulus tenuis* community complex. There is no direct source-pathway-receptor between the subject and the development site as there is no direct hydrological link. Surface water from the proposed development could create a potential link to the designated site, however, given the scale of the built environment between the two sites and the construction management plan proposed for the site, it is considered that no likely significant effects will arise that would compromise the integrity of the conservation objectives for the cSAC.

10.9.5 **The North Dublin Bay cSAC (000206)** is described as a relatively recent depositional feature, formed as a result of improvements to Dublin Port during the 18th and 19th centuries. It is almost 5km long and 1km wide and runs parallel to the coast between Clontarf and Sutton. The sediment which forms the island is predominantly glacial in origin and siliceous in nature. Between the island and the mainland there occurs two sheltered intertidal areas which are separated by a solid causeway constructed in 1964. The seaward side of the island has a fine sandy beach. A substantial area of shallow marine water is included in the site. The interior of the island is excluded from the site as it has been converted to golf courses. The qualifying interests for the cSAC are Mudflats and sandflats not covered by seawater at low tide, Annual vegetation of drift lines, *Salicornia* and other annuals colonising mud and sand, Atlantic salt meadows (*Glauco-Puccinellietalia maritima*), Petalwort *Petalophyllum ralfsii*, Mediterranean salt meadows (*Juncetalia maritimi*), Embryonic shifting dunes, Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes), Fixed coastal dunes with herbaceous vegetation (grey dunes) and Humid dune slacks. The conservation objectives for the qualifying interests are to maintain the favourable conservation condition of each of the interests against a set of listed targets. As with the assessment of South Dublin Bay cSAC, there is no direct source-pathway-receptor between the subject and the development site as there is no direct hydrological link. Therefore it is considered that given the proximity of the subject site to the designated site and the scale of urban development in that buffer zone, that the likelihood of significant impact on the conservation objectives of the site is negligible.

10.9.6 It is reasonable to conclude that 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 the South Dublin Bay & River Tolka Estuary SPA or the South Dublin Bay cSAC and the North Dublin Bay cSAC, or any other European site, in view of the site's Conservation Objectives and a Stage 2 AA (and submission of an NIS) is not therefore required.

10.10.0 Conclusion

10.10.1 The issues raised above in terms of the lack of integration of the proposed development with the existing buildings on site and the dominance of the road network at the expense of the housing layout are not issues which were raised by any party to the appeal. The Board may wish to address these issues under section 137 of the Planning and Development Acts, advising the parties to the appeal that these new issues may be taken into account and allowing them an opportunity to comment on the new issues. The issue of retention of trees on site, separation distances between dwellings and inadequate provision of public open space were raised by parties to the appeal and are not 'new issues'.

10.10.2 The principle of residential development on the subject site has been established, however, it is considered that the issues noted above are such that the residential amenity of future residents would be significantly affected and that the architectural context of Drumcondra Castle would be significantly affected. The proposed development is not in accordance with national guidance on Sustainable Residential development and does not comply with the policies and objectives of the DCC development plan, in terms of urban form, public and private open space, development in the curtilage of a protected structure and landscaping.

11.0.0 RECOMMENDATION

11.0.1 I have read the submissions on file, visited the site, and have had due regard to the provisions of the Dublin City Development Plan 2011 - 2017, the Sustainable Residential Development in Urban Areas Guidelines, the Sustainable Urban Housing Design Standards, the Architectural Heritage Protection Guidelines, the planning history of the site and all other matters arising. It is considered that the proposed development is not in accordance with national policy on Sustainable Residential development in Urban Areas, the Architectural Heritage Protection Guidelines for

Planning Authorities and is not in accordance with the policies and objectives of the Dublin City Development Plan 2011- 2017. The proposed development is, accordingly not in keeping with proper planning and sustainable development of the area. I recommend permission be REFUSED for the following reasons:

11.0.0 REASONS AND CONSIDERATIONS

- 1 Having regard to the existing character and the prevailing pattern of development on this site, the presence of a structure on site of architectural interest which is listed as a Protected Structure in the current Development Plan for the area, it is considered that the proposed development, by reason of its overall layout and removal of traditional field boundaries would seriously detract from the architectural character and setting of Drumcondra Castle and surrounding buildings generally. The proposed development would, therefore, materially and adversely affect the character of this Protected Structure, would seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area

2. Having regard to the lack of permeability for pedestrians and cyclists, the poor quality of the residential layout and design which is in conflict with the Design Manual for Urban Roads and Streets and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in May, 2009, it is considered that the proposed development would seriously injure the residential amenities of the area and the residential amenities of future occupants and would, therefore, not be in accordance with the proper planning and sustainable development of the area.

3. The proposed development, by reason of its inadequate separation distances between dwellings and the resultant overlooking of and loss of amenity to the private open spaces of those dwellings, would conflict with the provisions of the current Development Plan for the area and with the minimum standards recommended in the "Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities" published by the Department of the Environment, Heritage and Local Government in December, 2008 The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4. Having regard to the Arboricultural Impact Statement submitted with the application which assesses the group of trees in the centre of the site as being healthy and suitable for retention, and to the assessment of the Heritage Impact Report that the removal of the traditional field boundary comprised of this group of trees, will have a significant negative impact on the architectural heritage and setting of Drumcondra Castle, it is considered that the proposed development would be contrary to the objectives of the Dublin City Development Plan 2011- 2017 which seeks to retain existing trees where possible. Accordingly, it is considered that the proposed development would seriously injure the visual amenity of the area and be contrary to the proper planning and sustainable development of the area.

5. The proposed development, by reason of its inadequate provision of public open space, would conflict with the provisions of the Dublin City Development Plan 2011- 2017 which requires a minimum of 25% of lands zoned for institutional and community uses to be provided as public open space. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Planning Inspector
10/02/16