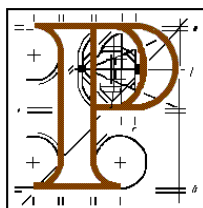


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL29N.246373

Development: Construction of a housing scheme comprising 318 no. dwellings, a crèche facility, a public park and all associated site development works at the Capel Site, Pelletstown, Ashtown, Dublin 15.

Planning Application

Planning Authority: Dublin City Council
Planning Authority Reg. Ref.: 3666/15
Applicant: Capel Developments Ltd.
Planning Authority Decision: Grant permission

Planning Appeal

Appellant(s): (i) Capel Developments Ltd.
(ii) Royal Canal Park Community Association
Type of Appeal: First & third parties
Observers: (i) Joseph Maguire
(ii) Navan Road Community Council
(iii) David Rouse
Date of Site Inspection: 23rd May 2016

Inspector: Donal Donnelly

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site is located in Pelletstown, Ashtown approximately 5.5km north-west of Dublin City Centre. Pelletstown is an extensive new outer-city mixed-use neighbourhood located between the Royal Canal and Tolka Valley Park. The site is situated towards the western side of Pelletstown, with the Royal Canal and Maynooth railway line continuing along its southern boundary and Ashtown village centre and rail station situated immediately to the west/ south-west. A smaller neighbourhood centre is located approximately 100m to the north of the site.
- 1.2 The area surrounding the appeal site to the west, north and east was developed broadly in accordance with the Pelletstown Action Area Plan, 2000. Just over half the lands were developed up to 2008. The dominant land use within the area is residential, with apartments and duplexes being the main dwelling types. The population of the area in 2011 was 3,777 and the total number of units within the Pelletstown area in 2012 was surveyed to be 2,121 (81% apartments, 12% duplexes and 7% houses). There are a number of large undeveloped sites within the LAP area, including the appeal site, and the completed development is generally mid-rise, comprising 4-8 storey buildings.
- 1.3 The appeal site has a stated area of 5.13 hectares and is generally level throughout. The southern boundary along the canal towpath measures approximately 290m. The towpath sits at a level of approximately 3.5m above the level of the site. This boundary comprises palisade fencing and mature trees/ hedgerow; there is currently no access to the canal along this boundary and all other boundaries are fenced off. A field boundary comprising hedgerow/ trees continues north to south within the site and there is a ditch and hedgerow towards the north of the site on an east to west alignment. The site otherwise comprises overgrown grasslands. Informal parking occurs along Rathborne Avenue to the north of the site.

2.0 PROPOSED DEVELOPMENT

- 2.1 The proposed development for the construction of 318 no. dwelling units consisting of:
- 176 no. apartments (including duplexes) in 3 no. buildings ranging in height from 5 to 6 storeys and comprising:
 - 16 no. 1-bed apartments;
 - 132 no. 2-bed apartments;

- 28 no. 3-bed apartments;
 - 142 no. terraced, semi-detached and detached houses comprising:
 - 55 no. 3-bed units;
 - 87 no. 4-bed units.
- 2.2 All apartments will be served by a balcony/ terrace and houses will have private gardens. The apartment blocks will be aligned to face the canal and houses will be laid out in a back to back grid pattern.
- 2.3 The proposal also includes the following:
- A crèche facility (397 sq.m.) and associated play place (138 sq.m.);
 - Public open space (5,433 sq.m.) including public park with active play area, communal open space (2,329 sq.m.) including podium courtyards and communal gardens;
 - 577 no. car parking spaces at surface and undercroft level;
 - 226 no. cycle parking spaces;
 - Bin stores and plant areas within the 3 no. apartment blocks;
 - An ESB substation (25 sq.m.);
 - 6 no. vehicle accesses;
 - 1 no. dedicated pedestrian/ cycle access from Rathborne Avenue;
 - Associated road improvement works including provision of raised table, traffic island, new road markings and kerbing on Rathborne Avenue and the provision of a traffic island on Royal Canal Way.

3.0 PLANNING HISTORY

- 3.1 There is extensive planning history relating to the development of the wider Pelletstown lands dating back over the past c. 15 years. The following cases relate to more recent applications in the surrounding area and those relevant to the appeal site.

Dublin City Council Reg. Ref: 1993/06

- 3.2 Permission was granted to Castlethorn in June 2006 on a c. 0.97 hectare site within the western side of the appeal site for 47 no. residential units (2 no. 1 bed units, 8 no. 2-bed units, 23 no. 3 bed units and 14 no. 4 bed units) laid out in six blocks of three to four storeys in height.
- 3.3 An extension of duration of this permission was granted under Reg. Ref: 1993/06/x1 to 26th July 2016.

Dublin City Council Reg. Ref: 5392/08

- 3.4 Capel Developments Ltd. were granted permission on 3rd March 2010 on a 1.5 hectare site within the northern part of the appeal site for 260 no. residential units (52 no. 1 bed units, 169 no. 2 bed units and 39 no. 3 bed units) in 2 no. blocks, together with a community centre.
- 3.5 The proposal was to be between 5 and 11 storeys; however 3 floors were omitted from Block A and 2 floors were omitted from Block B by condition.

Dublin City Council Reg. Ref: 2109/13 (PL29N.242713)

- 3.6 The Board upheld the Council's decision to grant Iarnród Éireann permission for the construction of a new railway station incorporating 2 no. 174m long by 3m wide passenger platforms either side of the Sligo to Dublin railway line, and a footbridge spanning the railway connecting the proposed platforms with 2 no. staircases and 2 no. ramps.
- 3.7 The station is to be located approximately 800m east of the boundary of the appeal site. The decision was made in October 2014.

Dublin City Council Reg. Ref: 2870/15

- 3.8 A Part 8 application was granted for the proposed Royal Canal Greenway. Phase 4 of the development from Phibsborough Road to Ashtown comprises the construction of c. 4.3 km of cycle and pedestrian route along the northern towpath.

Dublin City Council Reg. Ref: 2657/15

- 3.9 Permission was granted in September 2015 for the conversion of the former Castlethorn Construction Suite, Rathborne, River Road, Ashtown, to a temporary Primary School by the Department of Education & Skills.

Dublin City Council Reg. Ref: 3604/12

- 3.10 Permission granted in June 2013 for 208 no. dwellings, a crèche and 2 no. 5-a-side playing pitches at lands located towards the centre of Pelletstown on a 5.8 hectare site to the north-east of Crescent Park.
- 3.11 The proposal comprises of 15 no. 4-bed houses, 131 no. 3-bed houses 36 no. duplexes; 26 no. apartments, all served by a total of 274 no. car parking spaces.

Dublin City Council Reg. Ref: 2217/15 (PL29N.244844 – withdrawn)

- 3.12 Permission was granted in October 2015 for 71 no. 2 & 3 storey, 3 & 4 bed houses, all served by a total of 122 no. car parking spaces, associated open space, infrastructure and landscaping and the retention and completion of the existing road to the west of the proposed housing, originally built in accordance with an otherwise non-implemented permission Reg. Ref. 6061/04 and subsequently granted retention under the otherwise yet to be implemented permission Reg. Ref. 3604/12. The site is immediately to the east of Reg. Ref: 3604/12.

Dublin City Council Reg. Ref: 3069/14 (PL29N.244222 – withdrawn)

- 3.13 Permission was granted in February 2015 on a site at the eastern side of Pelletstown for 152 no. houses, 91 no. apartments, supermarket, 4 no. retail units, cafe/kiosk, car parking, children's playground and associated works.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and technical reports

- 4.1.1 Under the assessment of the application within the initial Planner's Report dated 11th November 2015, it is stated that the proposal is acceptable in principle. Reference is made to Development Plan Policies QH3, QH15 and QH17, as well as Section 17.6 – Building Height in a Sustainable City and Section 17.9 – Standards for Residential Accommodation. Section 16.3.1 also sets out the guiding principles for Pelletstown as a strategic Development and Regeneration Area and Section 3.2.3 identifies the area as one of nine Key Developing Areas for which a Local Area Plan (LAP) has been prepared.
- 4.1.2 The LAP states that the proposed residential density range should be 60-80 units per hectare (uph) on the western half of the plot and 50-70

uph on the eastern half. The stated net residential density of 62 uph is considered to be in line with the stipulation of the LAP.

- 4.1.3 The proposed apartment blocks are also considered to be in accordance with the height strategy of the LAP, and as such, the proposed site coverage and plot ratios are all acceptable in principle.
- 4.1.4 It is noted that there appears to be some discrepancy between plans and sections regarding the set back of the apartment blocks from the canal. This is considered to be particularly important given the proposed Part 8 Royal Canal Greenway.
- 4.1.5 There are concerns regarding the height of proposed Block J at 6 storeys which is considered to have an overbearing impact on the housing to the west. A maximum of 4 storeys is considered appropriate in the interests of visual and residential amenity.
- 4.1.6 The Case Planner highlights that the configuration of the housing blocks ensures that all streets and lanes have active edges, intimate streetscapes and passive surveillance.
- 4.1.7 It is considered that the proposed 3-storey dwellings along the northern edge of the site will provide an appropriate balance to the existing streetscape and that these dwellings adopt a similar urban rhythm to that of existing dwellings in the Pelletstown-Ashtown area. The proposed brick finishes, particularly to outer streets, are considered to mirror traditional red brick Victorian housing in Dublin.
- 4.1.8 There is concern regarding the positioning of some housing in proximity to the apartment blocks that there may be overbearing and overshadowing impacts. The relocation of the apartment blocks back from the towpath will also have consequences for the proposed houses to the north thereof. Unit 118 appears to be an isolated unit that should be omitted.
- 4.1.9 In addition, the north facing apartments at ground level within Block H1 and H2 are considered to have a low level of residential amenity. A more appropriate use of this space is considered necessary.
- 4.1.10 In terms of residential quality standards, it is considered that the proposed mix of apartment units (9% 1-bed, 75% 2-bed and 16% 3-bed) is acceptable. A total of 53% of residential units would be in accordance with the LAP objective that a minimum of 50% 3-bed+ units be applied across remaining developable lands.
- 4.1.11 The floor area of all apartments are above the minimum standards set out in the Development Plan. The average floor area across the scheme is stated to be 116.12 sq.m. There are 8 single aspect units

and this complies with the Development Plan stipulation that a minimum of 85% of units shall be dual aspect.

- 4.1.12 With respect to the requirement that 12-15 sq.m. of private open space be provided per bedspace, it is considered reasonable in this case to allow reduced garden areas of 60 sq.m.; however, there is concern regarding the delineation of some gardens to houses and clarity is therefore required.
- 4.1.13 The Planning Authority also has reservations regarding the provision of private and communal open space to apartments, as the applicant has not indicated the number of bedspaces per unit.
- 4.1.14 Separation distances of approximately 16m have been provided between the rear elevations of houses. This is considered acceptable having regard to the presence of hallways and bathrooms at first floor level to the rear of many of the houses. There is only 12m between Dwellings 44 and 32 and this is considered unacceptable.
- 4.1.15 The proposal for 5,433 sq.m. of public park is in line with the minimum 10% Development Plan requirement. It is noted that the park is aligned from north to south and will provide for play, kick-about and toddler areas; public art, community garden space and outdoor gym equipment. The Parks Department, however, has reservations regarding certain aspects of the scheme.
- 4.1.16 The phasing plan is in accordance with the phasing strategy set out in the LAP. The Construction Management Plan and the proposed approach to the development of the site is considered acceptable and unlikely to have a detrimental impact on adjoining lands.
- 4.1.17 A review of existing childcare and school facilities has been carried out by the applicant and it is concluded that the proposed crèche can be accommodated within the proposed development and local area. Planning permission has been approved for a temporary primary school.
- 4.1.18 Further information was sought from the applicant requesting the setting back of Apartment Blocks H1 and H2 by a minimum of 10m from the canal tow path; removal of 10 no. houses and increase of rear garden space to neighbouring dwellings; omission of ground floor apartments from Blocks H1 and H2; reduction of the scale of Block J to a maximum of 4 storeys; clarification of number of bedspaces and breakdown of private/ communal open space; clarification of the amount of private open space to housing units; submission of comprehensive noise and air quality management plans; revision of the proposal to narrow the carriageway and remove cycle lanes along Rathborne Avenue; removal of off-street perpendicular parking;

provision of road safety, refuse collection and DMURS compliance details; and submission of details on cycleways and cycle parking, playgrounds, park cross sections, park naming and signage, public art, parking, soil planting depths, boundary treatments and community garden management.

4.1.19 The further information submission was assessed in a subsequent Planner's Report dated 26th February 2016. In response to Item 1, Block H1 and H2 have been set back 10m from the outer edge of the tow path. The Planning Authority considers that this will facilitate the future construction of the Royal Canal Greenway and allow for a larger recreational space along the canal.

4.1.20 The layout of the dwellings to the rear of the apartment blocks has been reconfigured and the separation distances have increased, resulting in the omission of 11 no. dwellings. This layout is considered to be a more structured repeatable pattern that matches the urban form of the remaining houses within the proposed development. It is also considered that the creation of eight terraced rows ensures that there is no overbearing impact.

4.1.21 It is now proposed to replace the ground floor apartments within Blocks H1 and H2 with duplex units comprising bedrooms at ground level. Plant and substation facilities have also been grouped within the eastern part of Block H1. The Case Planner welcomes this alteration and comments that it will allow for greater daylight penetration to habitable rooms.

4.1.22 The applicant proposes that Block J remains at 6 storeys on the grounds that the LAP sets out the general height for the area of up to 6 storeys. It is also proposed to omit west facing balconies to increase the separation with the terraced houses to the west. However, it is considered by the Planning Authority that a 6 storey building at this location would not adhere to LAP policy that allows for a stepping down of height to housing developments. The Case Planner is of the view that the 6 storey block would have an overbearing effect and would appear constrained and irregular in its surroundings. No set back is proposed at 5th floor level and proposed Block J is 1.4m higher than the neighbouring block to the east. It is considered that Block J should be reduced to 4 storeys and as a result, the total number of apartments will reduce from 173 no. to 164 no.

4.1.23 With respect to private/ communal open space provision, the applicant submits that each apartment complies with the new apartment guidelines issued in December 2015, and these guidelines take precedent over the Development Plan and LAP. It is confirmed that a

total of 2,608 sq.m. of communal space is being provided when the requirement is 1,245 sq.m. This is considered acceptable by the Planning Authority. The provision of 60 sq.m. of private open space per house is considered acceptable subject to condition that no extensions, stores etc. shall be permitted without a prior grant of planning permission.

4.1.24 The Case Planner has reservations that the separation distance between house no's. 44 and 32 is inadequate. It is therefore considered that No. 44 shall be omitted with the resultant space used publicly or integrated into surrounding gardens.

4.1.25 With respect to roads and transport further information issues, the existing cycleway along Rathborne Avenue is to be retained and perpendicular parking to the south of the T junction has been replaced with parallel parking. A Road Safety Audit highlights a number of deficiencies within the site including parallel parking along Rathborne Avenue; an overall priority given to cars; absence of certain pedestrian desire lines; and difficulties with junction layout and alignment. The Roads and Traffic Planning Division note, however, that the proposed shared surface roads and all new road junctions have been designed in accordance with DMURS.

4.1.26 It is also recommended by the Roads and Traffic Planning Division that the proposed multiple paths from the housing units onto the proposed canal greenway should be omitted in favour of a single pathway from each apartment block.

4.1.27 The overall proposals and further information is considered acceptable to the Parks and Landscaping Services Section of the Council.

4.1.28 The Case Planner concludes that the proposal is welcomed given the location of the site and the surrounding context. It is stated that the proposal provides for a range of house and apartment typologies of varying sizes and tenure that will add to the quality of housing stock in the area. It is also recognised that the new open space will provide a valuable asset to the community and will deliver a highly permeable and attractive public realm.

4.2 Planning Authority Decision

4.2.1 The Council issued notification of decision to grant permission for the proposed development subject to 23 no. conditions:

- 4.2.2 Under Condition 4, the 4th and 5th floors of Block J shall be omitted, resulting in the removal of 6 no. 2-bed and 3 no. 1-bed apartments. The applicant is also required under this condition to submit details of materials, colours and textures of all external finishes regarding the stairways to Blocks H1 and H2.
- 4.2.3 Other detailed conditions are attached relating to landscaping, open space and taking in charge; roads and traffic (including omission of multiple pathways onto the Royal Canal Way and replacement with a single pathway from each apartment block to the central open space area); and drainage.
- 4.2.4 Conditions of a general nature are attached relating to development contributions, exempted development, naming and numbering of streets/ buildings, construction works, public lighting, waste management, water supply, disability access, provision of social and affordable housing, compliance with crèche guidelines and lodgement of security bond.

5.0 GROUNDS OF APPEAL

- 5.1 A third party appeal has been lodged against the Council's notification of decision to grant permission and a first party appeal has been lodged on behalf of the applicant against a number of conditions to the grant of permission.
- 5.2 The grounds of appeal and main points raised in each submission are summarised as follows:

Third party – Royal Canal Park Community Association

- Residents of Pelletstown have suffered from poor planning in relation to the timely delivery of infrastructure over the past decade, including overbridge at eastern end of Pelletstown; delivery of a permanent primary school; the provision of a temporary school within unsuitable accommodation; delivery of a train station at the eastern end of Pelletstown; and failure to upgrade River Road.
- Supply of additional housing should not come at the expense of proper planning and sustainable development of the area – Pelletstown currently has live permissions for an additional 522 units and the approval of an additional 318 no. units, in advance of any firm commitment on local infrastructure, is premature.
- The provision of a primary school; further rail infrastructure; improvements to River Road; upgrade of Ashtown Roundabout/ N3

junction; provision of signalised pedestrian crossing at Rathborne Village; and automation of level crossing at Ashtown train station should be considered, and financial commitments made where necessary, in advance of permission for further residential development.

- New train station and additional rolling stock to increase carriages from 4 to 8 are required to relieve overcrowding.
- 500+ cars in addition to live planning permissions is simply unsustainable in advance of some congestion alleviation measures.
- The following key pieces of infrastructure need to be included at planning phase and paid for by owners as part of the purchase price over several years:
 - Proper cycle frames should be in place that lock both wheels and frames;
 - Street furniture and double yellow lines to prevent ad hoc parking;
 - CCTV cameras throughout;
 - Clear and publicly transparent timeline for taking in charge – local residents have been left to plead with developers, to little avail, for the maintenance of roads, completion of footpaths and pedestrian crossings.
- Condition 6 (b) - *“public roads must be taken in charge prior to any public landscape areas being taken in charge.”* Sentence should be removed as it requires developer to maintain landscaped areas within the development for an open-ended period of time given the protracted nature of taking in charge of roads.
- Public open space running through the central spine of the development is stated to be taken in charge by the Owner Management Company – this area will benefit the wider neighbourhood and should be taken in charge by the Council.
- Granting permission for a development that will exacerbate existing road safety issues in contrary to the DMURS.
- Granting permission for the proposed development in the absence of a permanent school is contrary to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.

Element of doubt with regard to the permanency of the school has led to parents choosing other schools, which increases car use.

First party

- 5.3 This appeal has been made against Condition 2 (development contributions); Condition 3 (special contributions); Condition 4 (omission of upper two floors of Block J); Condition 6 (timing of completion of public open space); and Condition 7 (access junctions and pedestrian crossings) of the Council's decision. The grounds of appeal for each condition is summarised as follows:

Condition 2

- 5.4 It is submitted that the total sum payable is incorrect and does not reflect the final development proposal permitted by Dublin City Council, nor does the sum accord with the development contribution scheme.
- 5.5 The development contribution scheme states that only the gross floor area of each residential unit will be included for the purpose calculating the development contributions payable within multi-unit residential developments.
- 5.6 A total of 295 no. units have been permitted by the Council and the gross floor area has been calculated at 34,842.40 sq.m. The contribution payable has been calculated at €3,038,197.18 under this scenario.
- 5.7 The appellant has presented another scenario showing the calculation for an additional 3 no. units within Block J. The applicant is also appealing the Council's decision to omit the top floors of Block J and if this appeal is successful, the total gross floor area has been calculated at 35,066.80 sq.m., which gives rise to a contribution of €3,057,585.34.

Condition 3

- 5.8 It is submitted that the special development contribution condition is contrary to Section 48 (12) of the Act, as it does not specify the particular works to which the contribution relates.
- 5.9 Reference is made to the Development Management Guidelines which state that *"...it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/ scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to a particular development"*.

- 5.10 It is also noted that the LAP makes no reference to special contributions payable and advises that standard Section 48 development contributions will contribute towards expenditure by the Council.

Condition 4(a) – Design Changes to Block J

- 5.11 The applicant has submitted revised plans for Block J with the appeal submission showing a 4-storey building with setback 5th level. The following justifications for the amended proposal are also submitted:
- Block J is now lower than the adjoining apartment blocks to the east and south, and provides a stepped down approach/ graduation of building height between the 6 storey blocks and 3 storey houses.
 - Proposed height of Block J accords with the height strategy contained in the LAP, which allows up to 6 storey in the 'main area'.
 - Proposed units within 4th floor level within Block J comply with Ministerial Guidelines (Housing Quality Assessment enclosed).
 - Sunlight and daylight analysis submitted with appeal concludes that the proposed development is likely to result in little or no change in daylight access compared to permitted scheme. The setback storey would not interfere with the potential of nearby gardens to appear adequately sunlit.
 - Block J will present a narrow and stepped profile to terrace of houses to the west, reducing its massing and form – active break is also provided in the form of an access road, a tree-planted landscape strip and crèche amenity space.
 - Windows and balconies on the western side of Block J have been carefully designed to ensure no direct overlooking into terrace of houses occurs.

Condition 6(a) – Timing of completion of public open space

- 5.12 The applicant considers that the requirement to complete all public space and landscape proposals prior to first occupation is unwarranted given the scale of the development, and is contrary to the intent of the LAP in relation to phasing.
- 5.13 The LAP envisages that the scheme will be delivered in three phases with the pocket park and green route running north to south through the site being completed in phase 3.
- 5.14 The applicant has always envisaged a phased delivery of the development in line with the LAP and the Board is requested to remove

the requirement to complete all public space and landscape proposals prior to first occupation and to require completion of such works prior to occupation within each phase.

Condition 7(a) – Access junctions and Condition 7(d) – Pedestrian Crossings

- 5.15 It is submitted that these conditions are neither precise nor enforceable and are therefore contrary to the Development Management Guidelines.
- 5.16 Rathborne Avenue is not under control of the applicant and has not been taken in charge by the Council. The applicant has obtained written consent from Castlethorn Construction for certain works on Rathborne Avenue. However, it is considered that condition 7 a & d are so vague that they could relate to locations outside the red line boundary.
- 5.17 It is also highlighted that the provision of pedestrian crossings and junctions outside the site would be reliant on land under separate ownership and this cannot be enforced by the applicant. The Section 48 contribution is considered an appropriate mechanism for such works.
- 5.18 The applicant requests that these conditions are either amended to provide clarity, or omitted altogether.

6.1 Planning Authority response

- 6.1.1 In response to the appeals, the City Council has no further comment to make and considers that the Planner's Report on file adequately deals with the proposal.
- 6.1.2 The Planning Authority was asked by the Board to specifically address the grounds of appeal relating to the alleged improper application of the development contributions scheme. However, no response to this request was received by the Board.

6.2 First party response to third party appeal

- 6.3.1 The applicant's agent responded to the third party appeal with the following comments:
- Matters raised in the third party appeal relate almost entirely to matters that are outside the scope or influence of this application.

- Infrastructure specified by the appellant is not identified in the LAP as infrastructure required to be provided prior to further development occurring at Pelletstown.
- Appellant does not raise any issue with respect to adherence to the Core Strategy; compliance with zoning; compliance with the LAP; compliance with guidelines; compliance with Development Plan design standards; the quality of layout or elevational treatment of buildings; or drainage.
- Royal Canal Park Residents Association represents residents of the far end of Pelletstown to where the application site is situated.
- There is no foundation to the claim that the proposed development is premature – development follows a plan-led approach to the completion of a rail-based sustainable new community.
- Full suite of public infrastructure for Pelletstown will only be realised in the fullness of time, as the remaining vacant sites are developed and as public finances become available (LAP Policy LUS1).
- Applicant has addressed all specific public transport objectives included in the LAP for the subject site including a north-south linkage; pedestrian/ cycle/ green routes; public park; crèche; public act, adult gym equipment and play facilities; cycle parking; and 10m canal set-back with tree lined boulevard.
- Subject site is not identified for a permanent primary school, nor is the provision of a school facility determined as a prerequisite for further development.
- The funding and construction of a primary school is wholly the responsibility of the Department of Education & Skills and a temporary primary school is operational on a site to the west of the appeal site (Reg. Reg: 2657/15).
- Proposed train station is intended to serve the eastern end of Pelletstown and the appeal site is within a 5 minute walk from the existing Ashtown Station – introduction of a second station is not a prerequisite for development proceeding on the subject lands.
- The funding of a second railway station at Pelletstown is a matter for the National Transport Authority (Reg. Ref: 2109/13).
- Ashtown/ Pelletstown area will have unrivalled access to public transport options and other alternatives with the completion of Luas Cross City and the Royal Canal Greenway.

- Automation of the level crossing at Ashtown Rail Station is a matter for CIE and/ or the NTA.
- Council Roads and Traffic Planning Department is satisfied that the proposed development is acceptable, subject to compliance with conditions.
- Road infrastructure improvements referenced by the appellant do not adjoin or are not directly associated with the development of the subject lands, and are not referred to in the LAP.
- Development contributions will be paid towards public infrastructure that will facilitate and support the development, including road and transport projects.
- Management company will only be needed to look after 164 of the 295 units permitted by the Council, as well as some areas of open space and car parking.
- Proposed bike stands allow for wheel and frame to be locked to the stand.
- Applicant is happy to comply with Condition 6a which requires a landscape specification to be submitted for written approval.
- Issue of ad hoc parking was specifically raised within item 10f of the request for further information – parking within ‘Park Section East-West’ and ‘Site Plan Canal Level’ has been arranged to reduce impact on the park edge zone whilst providing bays for residents and visitors.
- Proposed scheme has been designed with a high level of passive surveillance and permeability. Public lighting will further ensure the safety of public spaces.
- Applicant is committed to delivering the relevant infrastructure including the provision of roads in tandem with each of the three phases of development. Timeline for taking in charge of roads is a matter for the Council.
- It would appear logical that the taking in charge of public landscaped areas be undertaken in tandem if not before the taking in charge of roads. Condition 6 (d) does require developer to be responsible for public open spaces for minimum of 2 years on completion and developer is required to lodge a security payment.

- Applicant is agreeable to central public open space being taken in charge by the Council.
- Condition 22 requires a management company to be set up for the areas not being taken in charge to provide adequate measures for the future maintenance and repair of private open spaces, roads, footpaths, car park and all services, soft and hard landscaping area.

6.3 Third party response to first party appeal

6.3.2 In response to the first party appeal against conditions, the Royal Canal Community Association submitted the following comments:

- Residents Associations support the correct calculation and payment of development contributions in accordance with the Planning Act.
- It is considered that the drawing submitted with the appeal regarding Condition 4 (a) showing the omission of the two upper floors of Block J represents an appropriate response and design compromise to the concerns raised in the Planner's Report.
- Appellants oppose the rewording of Condition 6(d) – phrasing should not result in a situation whereby key pedestrian and cycle routes are not delivered in the short term that results in restricted permeability through the LAP area.
- Grounds for appealing Conditions 7 (a) & (d) clearly support the Associations' assertion that a clear and publicly transparent timeline for taking in charge of roads must be established.
- There is essentially a standoff between the Council and developer with regard to taking in charge – road safety issues are identified then ignored.
- No improvement works have been demanded of developers in order to bring them to taking in charge standard.
- It is prudent to learn from the mistakes of the past and ensure that the proposed development is congruent with national policy, which seeks to develop sustainable, high quality, safe communities.

6.4 Observations

6.4.1 There are three observations on the appeals by residents of the area and on behalf of the Navan Road Community Council. The main points raised in each submission can be summarised as follows:

Joseph Maguire, 5 The Mews, Pelletstown Manor

- Submissions to Planning Department from observer and other objectors were ignored.
- Road Safety Audit was disregarded completely.
- Observer has lived in the area since 2005 and has witnessed the inertia and reluctance of the Council and developers to do anything to address road safety issues.
- Lives of young children attending the Pelletstown Educate Together School are being endangered by the failure to install footpaths and pedestrian crossings at the perimeter of the Capel site.
- A pedestrian/ cycle bridge between Ashtown and Ashington has been promised for years without being delivered.
- Due to previous bad planning, there are now chronic traffic delays which will be exacerbated by constructing an unsustainable amount of houses, if the proposed development goes ahead.
- Observer fully endorses the third party appeal by the Royal Canal Park Community Association/ Rathborne Community Association.

Navan Road Community Council

- Observer supports the reasons submitted in the third party appeal.
- School caters for junior and senior infant classes – there is no capacity or Dept. of Education & Skills consent for 1st to 6th classes.
- To date, no pedestrian crossings at the temporary school have commenced – it was a condition of Reg. Ref: 2657/15 that exact details of crossings and footpaths shall be agreed before commencement of the school development.
- Observer feels school may not be covered by insurance as the planning permission is incomplete.

- Parliamentary question regarding the crossing was asked on the request of the observer and the reply was that 'funds will be put in place'.
- There is no proactive enforcement of planning orders issued by local authorities.
- A train station is another unfulfilled aspiration of the initial Pelletstown Action Plan, 2000.
- Footbridge at new station to service Ashington on the south side and Pelletstown on the north side would provide connection to local schools, surgeries, post office, shops, church, Phoenix Park, buses, etc.
- Community Council are cognisant of the need to provide further housing in the greater Dublin area but this should not come at the expense of proper planning and sustainable development of the area.
- Observers disagree with third party appellants regarding upgrades to River Road – upgrading the road will attract additional traffic and increase the need for speed control measures. Road should be downgraded as a local access road with consideration for a one-lane, one way traffic flow system and 2-way cycle track.
- Original Pelletstown Action Plan contained a proposal to close River Road to motor traffic.
- Observer fully supports an upgrade of Ashtown Roundabout.
- Observer fully supports the provision of signalised pedestrian crossings at Rathborne Village.
- There are no pedestrian crossings throughout the entire Pelletstown development and no roads have been taken in charge.
- There is currently no safe means for a cyclist from Pelletstown to access Phoenix Park.
- Ad hoc parking is a major problem throughout Pelletstown and will be added to with 577 spaces.
- Photos are attached showing cars parked along footpaths of Rathborne Avenue, on the boundary of the proposal on the western curve and along footpaths closer to the station at the side/ rear of the Rathborne Village area.

- There is a difficulty enforcing the Road Traffic Act and Regulations if roads are not public roads.
- Proposal will result in the destruction of habitats where native flora and fauna have enjoyed relative freedom over the past two decades – comprehensive plan required to redress the loss of biodiversity envisaged by this development.
- Conditions should be imposed to reflect the concerns of the observers raised above.

David Rouse, 17 Cassian Court South, Royal Canal Park

- Construction of housing development with large number of apartments cannot continue without first putting in place the public transport, social and educational infrastructure referred to in the third party appeal.
- There are approximately 2,000 homes built and occupied in Pelletstown; 314 homes are under construction; there is a live permission for 208 dwellings; and there are other sites where planning applications for development of further homes are likely in the medium to long term – absence of provision of necessary transport and social infrastructure to support the population is not sustainable.
- National Transport Authority remains to allocate the balance of the train station project construction funding required to add to development levies.
- A permanent site for the school is reserved but not purchased.
- As a result of roads not being taken in charge, road markings, pedestrian crossings and pavements remain to be completed or are not being maintained.
- Developer must enforce proper parking standards within the estate under taken in charge.
- Key pieces of infrastructure, and important policies of the LAP remain to be progressed to allow for sustainable development and fully functioning communities in Pelletstown.
- Proposal should be refused until train station and school are in operation, and until outstanding aspects of the LAP are implemented.

7.0 POLICY CONTEXT

7.1 Development Plan

- 7.1.1 Within the Dublin City Development Plan, 2011-2017 the appeal site is zoned Z14 (Strategic Development and Regeneration Areas), where the objective is *“to seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and “Z6” would be the predominant uses.”*
- 7.1.2 Section 17.9 contains standards for residential accommodation. It is stated that proposals for 200 units or 20,000 sq.m. and above must make a significant contribution to an area in terms of community facilities and social infrastructure. Developers will be expected to submit an audit of existing facilities in the area and an assessment of the capacity of local schools to accommodate the development. A phasing and implementation programme may also be required, as well as an Urban Design Statement.
- 7.1.3 Pelletstown is designated as a Key Developing Area, i.e. one of the nine main growth areas identified for development in the lifetime of the Development Plan. There is an estimated capacity of 1,800 housing units and 41 hectares of zoned commercial/ employment lands. Pelletstown is also designated as one of 14 Strategic Development Regeneration Areas.

7.2 Local Area Plan

- 7.2.1 The Local Area Plan for Ashtown-Pelletstown was adopted in January 2014.
- 7.2.2 The overall strategy for the Ashtown/Pelletstown LAP area is the completion of development on the remaining sites and their successful and sustainable integration into the urban fabric of both the immediate area and the wider city.
- 7.2.3 The following land use policies are contained within the LAP:

“LUS1 To actively pursue the completion of development on remaining lands, predominantly for residential uses and related services, with regard to planned infrastructural improvements and the need for improved connectivity and integration with both existing adjoining development and also the wider city.

LUS2 In support of residential development, to seek appropriate mixed use development in selected areas, the protection and

enhancement of green areas and amenities, and to allow for the sustainable development of community/educational uses.”

- 7.2.4 The LAP contains policies to improve movement and access through the plan area. There are also specific movement and access objectives including MAO5 which seeks *“to require the preparation of a phasing programme with all proposed large-scale developments, to include (inter alia) clear reference to the intended roll-out of transportation infrastructure on the site. This programme shall also refer to planned improvements in connectivity for pedestrians, cyclists and motorists in the area, taking account of existing infrastructure and current barriers to movement.”*
- 7.2.5 In terms of urban form and design, it is the aim of the LAP *“to complete a new residential community that has an identifiable and attractive character, with high standards of building and public realm, design and finish set within a series of legible, permeable spaces and streets that capitalise on the green character of the LAP setting.”*
- 7.2.6 With respect to building height in undeveloped areas such as the appeal site, the approach is to allow for a stepping down of height to housing developments averaging between 4 and 2 storeys generally in the central area, with an extra storey plus the option of a setback floor allowable (6 storeys) to turn corners or mark ends of longer terraces. A strong visual presence to address the canal is envisaged with heights ranging from 3 up to 5 storeys in the central area and between 5 and 6 storeys closer to village locations.
- 7.2.7 Urban form and design objective UD06 seeks *“to require the completion of two secondary north south routes for pedestrians and cyclists that have a strong green infrastructure character, linking the Canal to the Tolka Valley Park via existing and proposed public spaces. Design and planting of these links should promote and encourage biodiversity through careful selection of tree species and under storey both along roads and within the parks provided.”*
- 7.2.8 The planned indicative residential density range for the appeal site, and related unit and population figures are set out below:

Appeal site	Hectares developable	Proposed residential density range (UPH)	Indicative number of new units (i.e. area x density)	Estimated population range (2.7 persons per household)
Western part	2	60-80	120-160	324-432
Eastern part	3	50-70	150-210	405-567

7.2.9 Objective HO2 aims *“to ensure a minimum of 50% of larger sized units, i.e. of 3+ bedrooms, are provided within the LAP area on completion of all development. Whilst percentages may be permitted to vary above or below this figure on a given site, any significant housing proposal will be required to demonstrate how it can contribute towards achieving the eventual 50% minimum across the LAP area.”*

7.2.10 In terms of community infrastructure, it is an aim of the LAP to ensure that the lands are adequately served by a wide range of quality community and cultural facilities and infrastructure to serve all ages including educational and childcare facilities, flexible spaces such as community/cultural centres, outdoor activity areas for children and adults, playgrounds etc. In this regard, the following criteria is required for 200 residential units+ or 20,000sq.m:

- Urban design statement + Crèche + Public Art + Children’s play facilities;
- Significant contribution to social infrastructure;
- Community Infrastructure Statement + Cultural Impact Assessment;
- Phasing and Implementation programme;
- Report identifying the demand for school spaces and an assessment of the capacity of the local schools.

7.2.11 Finally, a number of general design principles for the appeal site are set out in the Phasing and Implementation chapter of the LAP. These include:

- Provision of a series of urban blocks to shape the pattern of development;
- Provision of a string visual presence addressing the tow path (3-4 storeys stepping up to 5-6 storeys adjacent to Rathborne Village);

- Provision of 10m wide linear park along tow path;
- Provision of a new centrally located pocket park; and
- Provision of 2 access points (min) onto tow path;

7.2.12 The site is divided into three development phases. Family housing is identified for Phase 1 (40-50 units per hectare) and Phase 2 (50-70 uph); and Phase 3 will provide for a more mixed typology with densities of 70+ uph.

7.3 Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, 2008

7.3.1 These Guidelines include detailed advice on the role of urban design and planning for new sustainable neighbourhoods. At a district or neighbourhood scale within larger towns and cities, it is stated that provision should be made for community facilities; efficient use of resources including land, travel and energy; amenity and quality of life issues (open space, personal safety, traffic safety); and conservation of the built and natural environment.

7.3.2 In cities and larger towns, appropriate locations for increased densities are identified, including outer suburban/ greenfield sites and public transport corridors.

7.3.3 The final chapter relates to the home and its setting and issues of daylight, sunlight and energy efficiency; privacy and security; car and bicycle parking; private and communal open space; density, access and communal services.

7.4 Sustainable Urban Housing: Design Standards for New Apartments, 2015

7.4.1 These Guidelines provide recommended minimum standards for floor areas for different types of apartments; storage spaces; sizes for apartment balconies / patios; and room dimensions for certain rooms.

7.5 Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007

- 7.5.1 These Guidelines are intended to assist with the implementation of initiatives to promote better homes, better neighbourhoods and better urban spaces.
- 7.5.2 In terms of residential units, it is emphasized that the design approach for new dwellings should aim to create visually attractive structures which are suited to the needs of occupants within a reasonable level of cost. Each dwelling should make provision for ease of circulation; appropriate level of amenities; accommodation for everyday activities; economic, social and environmental sustainability; safety and security; compliance with building regulations; and value for money.
- 7.5.3 The Guidelines detail appropriate space requirements and room sizes for different dwelling types. This includes target gross floor areas for various unit types and bedroom numbers; minimum areas for main living rooms; aggregate living and bedroom areas; and storage space. These standards are intended to satisfy requirements for normal living.

7.6 Design Manual for Urban Roads and Streets, 2013

- 7.6.1 This Manual seeks to provide guidance on how to approach the design of urban streets in a more balanced way. It sets out an integrated approach to promote better street design by slowing traffic speeds and by encouraging careful place making, quality public realm and walking and cycling.
- 7.6.2 The principles, approaches and standards set out in the Manual apply to the design of all urban roads and streets with a speed limit of 60 km/h or less.

8.0 ASSESSMENT

- 8.1 Planning permission is sought for the development of 318 no. dwellings, together with a crèche, public park and all associated works at an undeveloped site within Pelletstown, Ashtown, Dublin 15.
- 8.2 The site forms part of the new Pelletstown neighbourhood located between the Royal Canal and Tolka Valley Park that has been under development broadly in accordance with the Pelletstown Action Area Plan, 2000, and more recently under the Pelletstown-Ashtown Local Area Plan, 2014. This area is zoned as a Strategic Development and

Regeneration Area (Z14), and is designated as a Key Developing Area within the Dublin City Development Plan, 2011-2017.

- 8.3 Just over half the lands at Pelletstown were developed up until 2008 and planning and development within remaining lands has recommenced. The appeal site lies to the west of the LAP lands, and at 5.14 hectares, represents one of the three main parcels of land to be developed.
- 8.4 Dublin City Council has issued notification of decision to grant permission for a total of 295 no. units subject to conditions. A first party appeal has been lodged against a number of these conditions. The Royal Canal Park Community Association has also lodged a third party appeal against the Council's decision primarily on the grounds that the proposal is premature pending the upgrade of infrastructure in the area to the support existing and proposed developments.
- 8.5 Having considered the contents of the planning application, grounds of appeal, issues raised in submissions, the planning history the site and its surrounding site context, I consider that this appeal should be assessed under the following:
- Development principle;
 - Layout and design;
 - Density and dwelling mix;
 - Residential amenity issues;
 - Infrastructural provision;
 - Taking in charge;
 - Development contributions; and
 - Appropriate assessment.

Development principle

- 8.6 The appeal site is zoned Z14 (Strategic Development and Regeneration Areas), where the objective is *“to seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and “Z6” would be the predominant uses.”*

- 8.7 It is stated in the Development Plan that proposals for 200+ dwelling units must make a significant contribution to an area in terms of community facilities and social infrastructure. The proposed development is for a predominantly residential development on a vacant parcel of land that is earmarked for large-scale development. The proposal also contains a crèche facility and large areas of public open space that will serve the wider area. The open space will include a children's play area and an adult gym, and having regard to the quantity and quality of public open space provision, I would be satisfied that the proposed development contributes to the rejuvenation of the area.
- 8.8 The proposal is also in accordance with the overall strategy of the Ashtown-Pelletstown LAP, which seeks the completion of development on the remaining sites and their successful and sustainable integration into the urban fabric of both the immediate area and the wider city.
- 8.9 A number of general design principles are included for the appeal site within the LAP and these are assessed in further detail in the following sections. Broadly speaking, however, the proposed development complies with these principles by providing urban blocks of development that give rise to improved levels of permeability. The proposal provides for improved access to the canal and facilitates a north-south linkage between the canal and Tolka Valley Park, as well as east-west linkages to adjoining developments. There will be a strong visual presence along the canal tow path and this is enhanced by the provision of a 10m wide canal side park. I would also be satisfied that in general, the height and built form of the perimeter of the development should integrate visually with the established development pattern
- 8.10 Overall, the proposal to develop these lands for predominately residential use is in accordance with the zoning objective and the site's designation as a Key Developing Area and Strategic Development and Regeneration Area. The LAP seeks the build out of this site for a mix of residential units in densities of between 40-80 units per hectare. The detail of the design and layout of the proposal and the make-up of residential units is assessed in more detail hereunder.

Layout and design

- 8.11 The layout of the proposed development, as amended at further information stage, includes a number of blocks of terraced back-to-back 3 and 4-bed houses situated behind 2 no. apartment blocks aligning the canal.

- 8.12 The proposal introduces a cul de sac type layout as opposed to the perimeter block layout within surrounding developments to the north and east. Existing development in the area provides for good levels of permeability and there are linkages in all directions. In my opinion, and from my observations on site, the existing development in Pelletstown acts as a good template for a successful high density urban living. There are active frontages throughout and legibility is enhanced by interesting and varied designs visible at eye level and above.
- 8.13 Having regard to the above, I would have some concerns that the proposed development includes elements of low density suburban style layout. Culs de sac increase travel distances and adversely impact on level of permeability and public transport access. There is also the argument that the only people passing by are residents of the cul de sac and this can reduce passive surveillance or the effect of “eyes on the street”.
- 8.14 Notwithstanding the above, I note that the cul de sac layout effects motorists more so than pedestrians and cyclists. There is an east-west pedestrian link that traverses the culs de sac to the north of the apartment blocks, thereby creating linkages externally and into the central open space area. There is also direct access to the central open space from the termination points either side on Royal Canal Way.
- 8.15 In my opinion, short culs de sac are less of an issue than traditional curvilinear loop layouts. There is potential for the development of “home zones” within short culs de sac and this can improve pedestrian safety. I noted from my site visit that existing road widths within the developed area of Pelletstown allow for car dominance and inappropriate speeds; road width are up to 9m in places. The proposed layout, on the other hand, should facility better priority for pedestrians and cyclists. I would, nonetheless, recommend that all internal carriageways are reduced in width from c. 6m to the minimum recommended width within the Design Manual for Urban Roads and Streets of 5m and 4.8m where a shared surface can be provided (access roads and culs de sac either side of central park on Royal Canal Avenue).
- 8.16 The issue of permeability from the site in the direction of Ashtown village and the railway station has been raised. I agree that the main pedestrian desire line from the site would be in this direction and Apartment Block H1 is positioned at the corner of the site on this line. However, the main point of entry to the site will be via the central park area. Residents of houses 1-19 and 96-107 are likely to access the train station/ village using roads and pedestrian routes to the west of the site and the diversion from an indicative direct route will be minimal.

- 8.17 Overall, I would be satisfied that the proposed layout of the proposed development can provide enough internal and external linkages for pedestrians and cyclists and that the impact of car traffic can be minimised by reducing road widths.

Density and dwelling mix

- 8.18 There are specific recommendations within the LAP for densities within different parts of the site, and with respect to increasing the quantity of larger dwelling typologies.
- 8.19 In terms of density, it is stated that the site should comprise a mix of residential units, with the density of 40-80 units per hectare across the site, comprising of higher densities located closer to the village centre and lower densities to the east and north of the site.
- 8.20 The LAP divides the site into three phases for development. Phase 1 equates to approximately the north-western third where the greater proportion of family housing will be provided at densities of 40-50 units per hectare. Phase 2, which is roughly the eastern third of the site is also to be developed for family housing at higher densities of 50-70 dwellings per hectare. Finally, Phase 3 within of the south-western third is to consist of a more mixed typology at densities of 70+ units per hectare.
- 8.21 Section 4.6.3 of the LAP sets out residential density ranges for the undeveloped land parcels within Pelletstown. The proposed residential density for the western part of the site is 60-80 units per hectare and within the eastern part, a density range of 50-70 dwellings per hectare is indicated. This would result in ranges of between 120-160 and 150-210 units per hectare for the western and eastern portions of the site respectively. Thus, the proposed development, comprising of 295 units (as permitted) would be at the lower end of the total indicative density range of 270-370 dwellings per hectare.
- 8.22 I would be of the opinion that a proposal towards the upper end of the density range would be more appropriate for this site. As noted above, I have some concerns with the introduction of suburban style housing and the land requirements associated within this development pattern. Whilst the overall density of the proposed development is relatively high, there are low density pockets which have the effect of reducing the number of units that can be accommodated on this site. Essentially, the effect of this form of low rise, low density development is the loss of at least 50 high quality dwellings and the privatisation of large areas of open space.

- 8.23 It is stated in the Sustainable Residential Development in Urban Areas: Guidelines that *“in general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes.”* A total of 127 no. dwellings are proposed on an area of approximately 3.47 hectares of the site, equating to a density of 37 dwellings per hectare. Furthermore, the part of the site where this density of development is proposed is located at distances of between 170m and 500m from Ashtown rail station. The Guidelines recommend that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station.
- 8.24 In my opinion, there is a successful established development pattern in the area consisting of perimeter block layouts with internal communal open spaces that could be repeated to include few and larger family sized apartments. Families currently reside within Pelletstown and this is evident from the 2011 census where the percentage of the population aged 0-14 within the small areas immediately adjoining the site to the north and west was 15.1%, 18.4%, 17.1%, 18% and 15.4%. All of these records are above the Dublin average of 15.2% apart from one.
- 8.25 With respect to dwelling mix, the proposed development, as permitted, contains approximately 3% 1-bed units, 43% 2-bed units, 25% 3-bed units and 29% 3+ bed units. LAP housing objective HO2 seeks *“to ensure a minimum of 50% of larger sized units, i.e. of 3+ bedrooms, are provided within the LAP area on completion of all development. Whilst percentages may be permitted to vary above or below this figure on a given site, any significant housing proposal will be required to demonstrate how it can contribute towards achieving the eventual 50% minimum across the LAP area.”*
- 8.26 The proposed development will include approximately 54% of dwellings comprising 3 or 4 bedrooms and this will help to address, what is considered in the LAP to be an imbalance, whereby 77% of all units (survey, summer 2012) had no more than two bedrooms.
- 8.27 Notwithstanding the above, it should be emphasised that the average household size in the State continues to fall. From 1991 to 2011, average household size has decreased from 3.3 persons to 2.7 persons through growth of one person households and falling family size. The Housing Agency predicts that $\frac{3}{4}$ of the total supply of housing over the 5 year period from 2014 will be for households with three people or less. It is therefore likely that there will be a more pressing need for smaller dwellings in the longer term.

- 8.28 A good mix of dwelling types and sizes within a particular location, however, will contribute to the sustainability of the neighbourhood by creating activity at all times of the day and increasing choice for people wishing to trade up or down within the community they have lived in. I would therefore have no objection to the proposed make-up of dwelling sizes, with over half of units comprising 3 and 4 bedrooms. I note from the LAP that 3 and 4 bed units have been provided elsewhere in Pelletstown in both apartment and duplex formats and therefore suburban style housing is not essential for providing this larger dwelling typology within the site.

Residential amenity issues

- 8.29 The applicant has produced a Housing Quality Assessment consisting of a detailed list of all dwellings and whether or not they meet Development Plan standards in terms of floor area and private/communal open space. Internal space standards are broken down into living areas, bedrooms, entrance halls, service areas and storage areas.
- 8.30 Internal floor areas all appear to be in excess of Development Plan requirements for 1-bed, 2-bed and 3-bed apartments, (55 sq.m, 80 sq.m and 100 sq.m. respectively). The floor areas for houses are also well in excess of target space provision and room sizes for typical dwellings contained within the Quality Housing for Sustainable Communities: Guidelines for Planning Authorities.
- 8.31 With respect to public open space provision, it is proposed to provide a total of 6,813 sq.m. along the canal greenway and within the central open space. This exceeds the Development Plan requirement of 10% of the site area (5,126 sq.m.).
- 8.32 It is proposed that houses will be provided with private open spaces ranging between approximately 60 and 70 sq.m. This would be below the Development Plan requirement that 15 sq.m. of private open space per bedspace should be provided for houses in suburban locations. Having regard to the high density nature of the proposed development and surrounding area, as well as the provision of good quality public open space in proximity to the houses, I consider that reduced garden areas are acceptable in this case.
- 8.33 Each apartment bedspace is provided with 9 sq.m. of private/communal open space in the form of balconies/ terraces, podiums and courtyards. In terms of area, this exceeds the new standards set within the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities, 2015. I would have some concern with the communal open spaces to the north of apartment Blocks H1 &

H2 being in shadow for much of the time. I note, however, that the total open space requirement for apartments is 1,245 sq.m. and a total of 2,608 sq.m. is being provided.

- 8.34 With respect to overshadowing and access to sunlight/ daylight, I note that a number of apartments within Block H1 & H2 are north/ east facing. Moreover, the apartment blocks will adversely impact on the gardens associated with nearest houses to the north thereof. The apartments within the western sides of Blocks H1 and H2 that are enclosed by the remainder of the apartment development to the south and west will have little sunlight access. I note, however, that these units will overlook the communal open space areas and this will off-set some of the amenity loss associated with the poor aspect of these units.
- 8.35 Block H1 will give rise to some overshadowing of the gardens of houses 93, 100 and 101 and Block H2 will overshadowing houses 112, and 117. The worst affected dwelling will be no. 112 and I note that the equivalent dwelling has been omitted at the same location behind Block H1. I would similarly recommend that No. 114 is omitted with no's, 113 and 112 relocated northwards. The remaining area should then be incorporated into the central open space or communal open space. I would otherwise acknowledge that in high density urban locations, such as this, some degree of overshadowing can be expected.
- 8.36 There were concerns in the Planner's Report with the positioning of dwelling no. 44 and its proximity to dwelling no. 32. It was recommended that no. 44 be omitted with the resultant space to be combined with the rear private space open space of no's. 32, 33 & 43 or transformed into public open space. It does not appear, however, that this recommendation was carried through into the conditions of the notification of decision to grant permission. The applicant submitted that there are no rear facing first floor habitable windows within these dwellings and this will protect from overlooking. I would be in agreement that no. 44 should remain in place for this reason and due to the visual impact that the omitted dwelling would have on the terrace frontage onto the central open space.
- 8.37 The Planning Authority attached a condition to its notification of decision stating that the 4th and 5th floors of Block J shall be omitted and that the structure shall have a maximum height of 4 storeys. This would result in the loss of 6 x 2 bed units and 3 x 1 bed units. The applicant has submitted revised proposals for Block J as part of the first party appeal. Block J is now shown as a 4-storey building with a 5th storey set back. It is submitted that Block J is now lower than the adjacent apartment blocks to the east and south and this provides a graduation of building height between these apartment blocks and the proposed 3-story terraced housing to the west. The applicant has also illustrated that

there will be little or no change in daylight access within the subject site or surrounding area compared to the permitted scheme, and that there will be no overlooking or overbearing impacts on the terrace of dwellings opposite.

- 8.38 I consider that the applicant's revised proposals for Block J are acceptable. The amendment will allow for an additional 3 no. apartments and amenity levels will be maintained. The Planning Authority had concerns that the height of Block J at 6 storeys would appear constrained and irregular in its surroundings. The revised proposal will see a reduction in height to 5 storeys and I consider that some additional height is acceptable for this building having regard to the ground floor commercial/ community use. The additional height will help to emphasise this use and set it apart from the predominantly residential surroundings.
- 8.39 Overall, I would note no significant concerns regarding the impact of the proposed development on the amenities of future residents. The main concern would relate to issues of overshadowing and poor aspect upon certain dwellings immediately to the north of the apartment blocks and from within the north/ east facing apartments. However, some overshadowing/ overbearing impacts are to be expected have regard to the desirability to develop apartment blocks fronting onto the canal.

Infrastructural provision

- 8.40 The main issue of concern for the third party appellant and observers relates to the lack of infrastructure that has been put in place over the past decade to serve Pelletstown. It is submitted that the provision of a primary school; further rail infrastructure; improvements to River Road; upgrade of Ashtown Roundabout/ N3 junction; provision of a signalised pedestrian crossing at Rathborne Village; and automation of level crossing at Ashtown train station should be considered, and financial commitments made where necessary, in advance of permission for further residential development.
- 8.41 It is also highlighted that the supply of additional housing should not come at the expense of proper planning and sustainable development of the area; Pelletstown currently has live permissions for 522 units and the approval of an additional 318 no. units in advance of any firm commitment on local infrastructure is considered by the appellants to be premature.
- 8.42 It is recognised in the Sustainable Residential Development in Urban Area – Guidelines that sustainable neighbourhoods require a range of community facilities and that the sequencing of residential lands must also be integrated with the provision of public transport, schools,

community, leisure facilities, etc. In this regard, the appeal site could be described as an outer suburban/ greenfield site on the periphery of the city whose development requires the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities.

- 8.43 With respect to schools, the Guidelines state that new residential communities can generate a demand for a significant number of new school places, particularly where families are attracted to the area. It is advised that no substantial residential development should proceed without an assessment of existing schools capacity or the provision of new school facilities in tandem with the development. Planning applications for 200+ dwellings should be accompanied by a report identifying the demand for school places likely to be generated by the proposal and the capacity of existing schools. However, it is only in very large scale residential developments of 800+ units that Planning Authorities are recommended to consider whether there is a need to phase the completion of dwellings with the provision of new school facilities.
- 8.44 The applicant has submitted a school capacity assessment with the planning application which outlines all schools in proximity to the proposed development. No assessment would appear to have been carried out on the capacity of these schools and the potential numbers of school age residents within the proposed development. As noted above, the surrounding developments to the north and east have above average numbers of persons within the 0-14 age cohort and this trend is likely to continue or even increase.
- 8.45 The appellant highlights that the development of the appeal site will bring the total number of permitted/ proposed dwellings at Pelletstown to over 800. The Board may therefore wish to consider attaching a condition that phases the completion of the proposed development in line with the provision of additional school places as confirmed by the Department of Education and Skills. It should be noted, however, that permission has been granted for a temporary school in the area and a site has been identified for a permanent school. The Department of Education and Skills must ensure that provision is made for the school as it expands up through each school year.
- 8.46 With respect to the provision of other infrastructural measures outside the boundary of the appeal site, and as noted in the Development Management Guidelines, Section 34(4)(m) of the Planning and Development Act, 2000 (as amended) allows for planning authorities to impose conditions to require a developer to carry out additional works, such as the provision of roads, traffic calming measures and other public facilities in excess of the immediate needs of the proposed

development, subject to the local authority paying for the cost of the additional works and taking them in charge or otherwise entering into an agreement with the applicant with respect to the provision of those public facilities. The applicant will otherwise be required to pay a development contribution in respect of public infrastructure and facilities benefiting development in the administrative area of the Planning Authority. A special development contribution condition (under appeal) in addition to the contribution under the Development Contribution Scheme has also been attached to the notification of decision to grant permission.

- 8.47 I would also be in agreement to some extent with the applicant that much of the infrastructure specified by the appellant is not identified in the LAP as infrastructure required to be provided prior to further development occurring at Pelletstown. The proposal follows a plan-led approach to the overall development of these lands and I would recognise that much of physical, social and green infrastructure required for successful urban living at this location is already in place.
- 8.48 The application is appealing Condition 7(a) and 7 (d) relating to the provision of access junctions and pedestrian crossings. Condition 7(a) requires the applicant to agree the layout and geometry of all new access junctions into and throughout the site, with the provision of raised ramps and plateaux if required. Condition 7(d) requires the applicant to agree details for the completion of all pedestrian crossings in the vicinity of, and which will serve the proposed development.
- 8.49 The applicant considers that the conditions are not precise and lack clarity and would require certain works outside the boundary of the site. In my opinion, pedestrian crossings and access junctions are an essential element of the proposed development and it is only reasonable that the applicant should construct this infrastructure or contribute to its cost. The Board may wish to seek further information from the applicant to include the precise junctions and crossings to be provided. Alternatively, as suggested by the applicant, the Planning Authority could utilise Section 48 contributions. I proposed the attachment of a general condition to any grant of permission stating that the internal road network and external access junctions serving the proposed development shall comply with the requirements of the Planning Authority.

Taking in charge

- 8.50 The third party and first party have issues with Conditions 6 (b) and 6 (d) respectively, which state as follows:

“6. The developer shall comply with the following conditions from Dublin City Council Parks & Landscape Service:

b) Plans must be submitted for proposed public open space to be taken in charge by Dublin City Council prior to construction commencement to outline areas proposed to be taken in charge by Parks & Landscape Services (Parks). A site inspection of areas to be taken in charge shall be arranged in writing two weeks before the proposed date of being taken in charge. As-constructed/as-built drawings shall be submitted prior to agreed inspection date. Landscape proposals that do not comply with the approved scheme or have failed or are in poor condition on the opinion of Parks will result in rejection of taking in charge until the applicant presents an acceptable landscape scheme at further taking in charge inspections. No partial taking in charge will be permitted. Proposed public roads must be taken in charge prior to any public landscape areas being taken in charge. Public open space areas indicated within the development that are not accessible to maintenance by Parks & Landscape Services by public road will not be taken in charge.

d) All public open space and landscape proposals shall be completed in accordance with submitted and approved plans, details and specifications, prior to first occupation of any proposed residential units. The developer shall be responsible for maintenance and management of the proposed public park, and any other public open spaces proposed to be taken in charge, for a minimum period of two years on completion of the said park and any other relevant open spaces, on the expiry of which period the park and relevant public open spaces shall be presented for taking in charge by Dublin city Council's Parks & Landscape Services.”

- 8.51 The third party appellant considers that the sentence *“public roads must be taken in charge prior to any public landscape areas being taken in charge”* should be removed as it requires the developer to maintain landscaped areas within the development for an open-ended period of time given the protracted nature of taking in charge of roads. It is also considered that the central open space area will benefit the wider neighbourhood and should be taken in charge by the Council.
- 8.52 In response to these issues, the applicant states that it would appear logical that the taking in charge of public landscape areas should be undertaken in tandem if not before the taking in charge of roads. The applicant also points out that Condition 6 (d) requires the developer to be responsible for public open spaces for a period of two years after

completion of the development and it would appear that public roads must be taken in charge prior to expiry of this period.

- 8.53 I do not agree with the first party appeal that the central area of open space can be completed within Phase 3 of the development. Market conditions can change and a scenario could arise whereby occupied dwellings are left without public open space for a considerable period.
- 8.54 Finally, I would note that all services and infrastructure to be taken in charge shall be constructed in accordance with the planning permission granted. Furthermore, the developer may request to have the development taken in charge by written submission to the local authority and the phased taking in charge of a development may be considered where phases are completed and are in isolation to the remainder of the development, have unique access points onto the public road and there is a clear demarcation between the phases.

Development contributions

- 8.55 The applicant has appealed the Conditions 2 and 3 relating to development contributions and special development contributions.
- 8.56 The appeal against the Section 48 development contributions is on the basis that Dublin City Council has not calculated the correct amount commensurate with the actual number of dwellings permitted. I agree that an inaccurate amount has been included in this condition and would propose the attachment of a general condition with an unspecified amount for this matter to be agreed between the developer and local authority.
- 8.57 With respect to special development contributions, the applicant considers that this condition does not specify the particular works to which the contribution relates. In this regard, Section 48 (12)(a) of the Planning and Development Act, 2000 (as amended) states that *“the condition shall specify the particular works carried out, or proposed to be carried out, by any local authority to which the contribution relates.”*
- 8.58 It does not appear that the local authority has provided any rationale for the special development contribution and therefore I would be in agreement that this condition should be omitted. I note that Dublin City Council has not responded to the first party appeal against Conditions 2 and 3.

Appropriate Assessment

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

9.0 CONCLUSIONS AND RECOMMENDATION

- 9.1 The proposal for large scale residential development at this location would be acceptable in principle and in compliance with the zoning of the site as a Strategic Development and Regeneration Area, and with the designation of Pelletstown as a Key Developing Area.
- 9.2 The proposed development provides for a reasonable mix of dwelling types and I do not consider that there will be any significant amenity issues for future residents of the scheme. The layout of the proposed development affords adequate levels of permeability and there is good provision of public open space with external linkages to the canal. The contemporary design of the scheme is consistent with the established pattern of development in the area and overall the scheme will help to create a sustainable, accessible and high quality living environment for future residents.
- 9.3 My outstanding concern relates to density and what I consider to be a lost opportunity to provide at least 50 additional dwellings in close proximity to a rail node and alongside a future greenway that will provide direct access to the city centre and docklands. The Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities recommends densities of at least 50 dwellings per hectare and whilst the overall density on the site exceeds this figure, over two thirds of the site will be developed at a density of less than 40 dwellings per hectare.
- 9.4 The Board may therefore wish to consider an increase in the density of the proposed development by replacing all two storey dwellings in the internal part of the site with 3-storey duplexes. I have concerns that the introduction of a 2-storey suburban format represents poor levels of efficiency in land usage and I do not consider that individual houses are essential for family living. This is evidenced by the higher numbers of those within the 0-14 age group above the Dublin average already living in the immediate vicinity in mostly apartments and duplexes served by good quality safe communal spaces.
- 9.5 Notwithstanding the above, the proposed development must also be considered in the context of the policies and objectives of the Ashtown-

Pelletstown Local Area Plan, 2014. Overall, the proposed development falls within the density range set out in the LAP for the site, albeit at the lower end. The proposal complies with many of the more significant policies and objectives of the LAP that seek the creation of a north-south linkage through the site to the canal in the form of a high quality central open space; the provision of canal fronting apartment development; and the creation of a higher proportion of 3 and 4 bed homes.

- 9.6 In general, I consider that the proposal complies with a central aim of the LAP *“to complete a new residential community that has an identifiable and attractive character, with high standards of building and public realm, design and finish set within a series of legible, permeable spaces and streets that capitalise on the green character of the LAP setting.”* The proposal also accords with Development Plan Policy QH3 which seeks *“to encourage and foster the creation of attractive mixed use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities.”*
- 9.7 It is considered that the proposed development should be granted for the reasons and considerations hereunder.

REASONS AND CONSIDERATIONS

Having regard to the Z14 Strategic Development and Regeneration Area zoning objective for the site, and its location within Pelletstown which is designated as a Key Developing Area in the Dublin City Development Plan 2011, together with the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area or residential amenities of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted the 2nd day of February 2016 and by the further plans and particulars received by An Bord Pleanála on the 29th day of March, 2016, except as may otherwise be required in order to

comply with the following conditions. 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 in accordance with the agreed particulars.

Reason: In the interest of clarity.

2 The proposed development shall be amended as follows:

- (a) Dwelling no. 114 shall be omitted and dwelling no's. 112 and 113 shall be relocated northwards to form a four-dwelling terrace at this location. The vacated area shall be incorporated into adjoining public or communal open space.
- (b) All carriageway widths throughout the proposed development shall be no more than 5m. Where shared surfaces are proposed, carriageway widths shall be 4.8m.
- (c) Block J shall be 5-storeys in height with setback fifth storey as illustrated within drawings submitted with the first party appeal on 29th March 2016.
- (d) Multiple pathways onto the Royal Canal Greenway shall be replaced with single pedestrian accesses onto the central open space area.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of traffic safety and convenience.

3 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.

4 The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Planning Authority's Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

- 5 Prior to the commencement of development, the applicant shall delineate on a map those areas which are to be taken in charge for written agreement of the Planning Authority. In relation to those areas not taken in charge a Management Company shall be set up. The Management Company shall provide adequate measures for the future maintenance and repair in a satisfactory manner of private open spaces, roads, footpaths, car park and all services, together with soft and hard landscaping areas, where not otherwise taken in charge by the Local Authority. Detailed proposals for this shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of the future maintenance of this private development, in the interests of residential amenity and the adequate provision of community facilities.

- 6 The areas of public open space shown on the lodged plans shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

- 7 All planting / landscaping required to comply with the specification of the landscaping scheme submitted to the planning authority shall be maintained, and if any tree or plant dies or is otherwise lost within a period of 5 years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.

Reason: In the interest of visual amenity.

- 8 The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

- 9 The proposed crèche/ childcare facility shall comply with the Planning Guidelines on Childcare facilities issued by the Department of the Environment, Heritage and Local Government in June 2001.

Reason: In the interests of orderly development.

- 10 Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 (as amended) or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwelling houses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

- 11 The internal road network and external access junctions serving the proposed development, including turning bays, junctions, parking areas, footpaths, pedestrian crossings, cycleways and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

- 12 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 and to ensure a proper standard of development.

- 13 Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

- 14 A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these

facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

- 15 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

- 16 The naming/ numbering of the proposed development shall be agreed in writing with the planning authority prior to its occupation.

Reason: In the interest of orderly street numbering.

- 17 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

- 18 Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been

granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

- 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Donal Donnelly
Planning Inspector
Date: 5th July 2016