



**Inspector's Report**  
**Development:**

Residential development of 10 no. houses and 71 no. apartments within Part of the curtilage of Santa Sabina, St. Dominics School and Convent Complex, Greenfield Road, Sutton, Dublin 13.

Planning Application  
Planning Authority:

Fingal County Council

Planning Authority Reg. Ref.:

F15A/0303

Applicant:

Parsis Limited

Type of Application:

Permission

Planning Authority Decision:

Grant Permission

**Planning Appeal**

Appellant(s):

1. B.O.M. Santa Sabina Dominican College
2. Stephen and Pamela Byrne
3. Dominican Sisters Region of Ireland

Type of Appeal:

Three no. 3<sup>rd</sup> Party

Observers:

1. The Student Council of Santa Sabina Dominican College
2. Brendan and Rosaleen Kernan

Date of Site Inspection:

20<sup>th</sup> June 2016

Inspector:

Fiona Fair

Appendices:

Photographs, Site location Map

## **1.0 SITE DESCRIPTION (see photographs and location map)**

The site, with a stated area of 1.559ha, is located to the north of Greenfield Road, some 600m to the southeast of Sutton Cross, c.11km from Dublin City Centre and over 1km from Sutton DART station. The site is irregular in shape and currently constitutes part of the grounds of St. Dominic's High School Santa Sabina. The site is under grass and contains a number of mature deciduous trees – mostly sycamore and ash. There are significant views of Dublin Bay from the lands. The point of access from Greenfield Road is slightly higher than the remainder of the site.

A small area is used as a surface car-park for the school. There is a bunded oil tank in the northeastern corner of the site. The site is bounded immediately to the east by the part single-storey part-two storey school complex including a parking area, the convent, detached sports hall and playing areas/fields. There is no delineation along this boundary. The site is bounded by St. Fintan's RC church, that is currently being assessed for inclusion in the Record of Protected Structures, and two-storey presbytery to the northwest, with the shared boundary delineated by a discontinuous, 2.8m high palisade fence, old hedgerow and old stone wall up to 2m in height in the vicinity of the presbytery. Two-storey, semi-detached houses in Glencarraig Estate back onto the site to the north, with a 2.0-2.4m high, unplastered and uncapped concrete block wall delineating the shared boundary (no.s 13-23). A new all-weather, floodlit pitch has been constructed to the south of the site – to the east of the existing school entrance. This facility is surrounded by a high fence.

The complex is served by an existing bell-mouthed vehicular access (with modern wing walls) from Greenfield Road, and a driveway lined on one side by mature trees, and a low crumbling stone wall. There is a separate pedestrian access immediately to the west of the vehicular access. The school grounds address the sea (on the opposite side of Greenfield Road), with the intervening area between road and sea laid out as an amenity park area. Public footpaths and public lighting are in place in the vicinity of the site.

The 50kph speed restriction applies in this area. There are bus stops for Dublin Bus route 31B immediately outside the school. There are fine views of Dublin Bay from the site.

## **2.0 PROPOSAL:**

Permission is sought for construction of:

A residential development of 81 no. dwelling units and crèche comprising of 10 no. houses and 71 no. apartments encompassing:

- Block A\_B1 - a three storey block of apartments over basement parking containing 6 no. one-bedroom units, 11 no. two-bedroom units and 1 no. three-bedroom unit and a crèche measuring 176.1 sq. m. on part of the ground floor;
- Block B2\_B3 - a three storey block of apartments over basement parking containing 6 no. one-bedroom units, 13 no. two-bedroom units and 1 no. three-bedroom unit;
- Block C1 - a three storey block of apartments over basement parking containing 18 no. two bedroom units;
- Block C2 - a three storey block of apartments over basement parking containing 15 two-bedroom units;
- Block D (houses) containing 10 no. semi-detached houses, eight houses are two storey plus dormer storey 5-bedroom houses and two houses at the western end of the terrace are two storey, one containing 3 bedrooms and the other 4 bedrooms;
- An underground car park containing 121 car spaces and 108 bicycle spaces and surface parking for 41 car spaces.
- Landscaped private and public open space, boundary fencing,
- Balconies to the houses and apartments, private gardens to the houses,
- Lighting, play areas, site drainage works and ancillary site development works.
- Revised entrance location and design on Greenfield Road, a newly aligned improved access road, cycleway and separate pavement to

service the proposed new development and the existing School and Convent.

- The proposal includes the resurfacing and improvement of a section of the tree-lined entrance avenue that forms part of the curtilage of the Santa Sabina Protected Structure.

Additional information and Clarification of additional information was lodged on this file.

Application accompanied with:

- Planning Report
- Stage 1 Appropriate Assessment (AA) Screening
- Conservation Architect Report,
- Schedule of Accommodation
- Traffic Impact Assessment and drawings
- Flood Risk Assessment and Drainage Assessment Report and Drainage Drawings
- Design Statement

### **3.0 PLANNING AUTHORITY'S DECISION**

Subsequent to further information being requested with respect to:

(1) Revised drawings indicating the apartment numbers and types, corresponding to the schedule of accommodation and accurate scaled drawings

(2) Private Open Space - balcony sizes do not meet Development Plan standards, unacceptable proximity of balconies to bedrooms on opposing blocks, aspect, size and location of some balconies positioned on the proposed footpath or overhanging the public road need to be amended, screening materials to balconies needs to be detailed, poor private open space for residents of one bed apartments and overbearing impact to crèche garden space and clarification of proposal to retain a tree to the front of apartments, clarification of storage space allocation, privacy strip of 1 m to the

southern aspect of Block B2 and C1 and redesign of northern elevation of Block C2

(3) Demonstrate that noise insulation standards are complied with without encroaching on size of apartments.

(4) Clarification of scale/ finish/ height to all boundaries.

(5) Height of the 3 storey houses should be reduced and dormer element on the rear elevation should be omitted

(6) Issues relating to Transportation aspects of the development; realign access road, clarify the proposed finishes, set down area for the crèche, accessibility of car parking space, car parking within the curtilage of the each site and appropriate bicycle parking location, design of pedestrian crossing

(7) Clear demarcation of public open space and details of playground provision.

(8) Issues relating to water services, watermain layout, petrol / oil interceptor at basement car park discharge point, minimum clear distance of 3m maintained between public foul sewers and all structures.

(9) Surface water issues, SUDS, Flood Risk Assessment and Drainage Risk Assessment compliance issues, minimum clear distance of 3m maintained between public sewers and all structures, surface water discharge

And Clarification of Further information being requested with respect to:

(i) Transportation issues (2) Private Open space (3) Feasibility of providing balconies to the front of Block C1 in place of the side balconies, (4) Height of the eight 3-storey dwellings should be reduced and rear dormer element omitted (5) Balconies on the 1<sup>st</sup> and 2<sup>nd</sup> level to apartment's no. 13 and no. 7 and their relationship with the crèche building remains a concern (6) Issue of 1.5m wide strip along the western and western façade of Block C1 needs to be addressed.

Fingal County Council Granted Planning Permission subject to 32 no. conditions.

**Condition 2** That this permission authorises 68 apartments and 10 houses.

**Condition 3** External finishes to be agreed with the p.a.

**Condition 4** written agreement for boundary treatment with school site to be agreed

**Condition 5** landscaping plan to be agreed with the p.a.

**Condition 6** entrance road shall not be gated, development shall remain open and accessible.

**Condition 7** The proposed crèche shall cater for 25 children maximum. Opening hours 7.00 am – 19.00 pm Mon – Fri only.

**Condition 8** Noise insulation.

**Condition 13** relates to transportation issues and car parking.

**Conditions 14 & 15** agreement with Irish Water (IW)

**Condition 17** suitably qualified arborist / landscape professional shall be employed

**Condition 18** A tree bond

**Condition 19** Playground facilities shall be provided at a rate of 4 sq. m per residential unit

**Condition 26** Part 5 Agreement with p.a.

**Condition 27** Management Company to be established

**Condition 30** financial contribution in respect of public infrastructure and facilities benefiting the development in the area.

**Condition 31** financial contribution in lieu of open space provision

**Condition 32** bond.

#### **4.0 TECHNICAL REPORTS**

The reports are summarized as follows.

##### **4.1 Planners Report:**

The planners report reflects the decision to grant permission subject to conditions.

##### **4.2 Transportation Department:**

Report, subsequent to AI and C.A.I recommends no objection subject to condition.

### **4.3 The Parks and Green Infrastructure Division**

Report, subsequent to AI and C.A.I recommends no objection

### **4.4 Heritage Officer**

The planners report notes 'no objection' from Heritage Officer'.

### **4.5 Water Services Department:**

Report subsequent to AI recommends no objection

### **4.6 Irish Water**

Report subsequent to AI recommends no objection

### **4.7 The Environmental Health Officer**

No objection.

**4.8 Note.** The file was referred, by An Bord Pleanála, to DAU DAHG, An Táisce, The Heritage Council, An Comhairle Ealaíon and Fáilte Ireland, no reports were received.

### **4.9 Objections/Submissions**

A number of objections were received, see planners report on file for summary of same, concerns raised are similar in nature to those raised in the third party appeals and summarised in detail below.

## 5.0 APPEAL GROUNDS

**5.1 A third party appeal has been lodged by HRA Planning on behalf of Mary Morgan the current chairperson of the Board of Management (BOM) on behalf of the BOM, Santa Sabina Dominican College, Sutton, Dublin 13.** The grounds of appeal are summarised as follows:

- No objection to the principle of development on the appeal site
- Notification of decision to grant planning permission by FCC fails to consider adequately the potential effects on the amenities and on the safe operation of the school for pupils.
- Proposal would materially contravene the land use zoning and result in adverse effects on the amenities of the school and safe movement of pedestrian and vehicular access / egress to and from the school
- CI land use zoning expressly prohibits residential development
- Concerns with respect to flood risk management
- The lands subject to appeal was purchased under contractual agreement from the order of the Dominican Sisters for the intended purpose of development. As part of the contract of sale, the preservation and integrity of the school and access to / from it and the public road were sought.
- The agreement sought to provide for an alternative roadway abutting the boundary of the school to and from the adjoining lands of the vendors, a footpath on the right hand side of the existing road, provision of a cycleway of 1.50m adjoining the footpath and that construction of the roadway and services shall be carried out during the school holiday period.
- The appeal proposal seeks to use the same vehicular access as the school thus ignoring the contractual obligations relating to the site access development works.
- Acknowledge that the terms and conditions of the contract of sale may be a civil matter, nonetheless, it is a departure by the applicant from the agreed terms of sale and development of the property



- The provision of appropriate road, footpath and cycle lane infrastructure for the school as part of the proposed development is necessary to protect and safeguard the amenities of the neighbouring property.
- Concern that traffic hazard and conflict will arise between pupils walking and cycling to school and occupants of the development during peak times.
- Object to positioning and orientation of aspects of the proposal within the eastern extremity of the application site on land zoned CI and immediately adjacent to the school boundary, sports hall and where the amenity outlook of some apartments and balconies is orientated directly into and over the school property. In particular Blocks B2 and C2
- Negative impact as a result of overbearing and overlooking
- Suggestion of obscure glazing as a design response is not acceptable
- Concern with respect to free flow of pedestrian and vehicular traffic along the internal access road generated by the proposed development
- School enrolment of up from 595 to 700 pupils since the previous application on these lands (2009).
- The traffic impact assessment was carried out in June outside of the school year and therefore not representative of the normal school year and travel behaviour
- Concern with respect to construction traffic and impact on school children.
- While planning permission exists for an alternative entrance to the school (Ref. F08A/0441/E1) there is no immediate or long term intention to implement that permission by the school due to limitations of the school.
- Report by Roghan & O'Donovan ('Traffic and Transportation Observations Report') prepared on behalf of the BOM and lodged to the planning authority, raises serious and material concern on matters of road and traffic safety.
- The proposed layout arrangement of the new vehicular access road and junction will result in the re-prioritisation of road user and will result in

direct interaction between vehicles, pedestrians and cyclists in an ad-hoc uncontrolled manner

- Request that the developer provide a prioritised pedestrian pathway through the development site on both sides of the access road together with a dedicated and appropriate sized cycle land.
- Concern that flood risk management has not been adequately dealt with
- Note mitigation measures proposed, however, there is no reference in the flood risk assessment to the potential for residual off-site effects on the school property.
- The school has experienced major internal and external flooding since start of the academic year 2015 / 2016
- Under the provision of the Flood Risk Management Guidelines it would be reasonable and practicable for the flood risk assessment to provide confirmation of the potential flooding effects on the school property as a consequence of the proposed development
- Appeal accompanied with:
  - Map indicating zoning objectives with proposed development layout overlay
  - Photographs
  - Photographic evidence of site flooding, external and internal
  - Extract from Contract of Sale of Subject Property. Conditions of Tender/Sale and Tender Form, Particulars and Conditions of Sale of lands at Santa Sabina, Sutton, Co. Dublin
  - Copy of draft notification of decision to grant planning permission Reg. ref. F15A/0303

## **5.2 A third party appeal has been lodged by Stephen and Pamela Byrne.**

The grounds of appeal are summarised as follows:

- Negative impact to amenity of properties in Glencarraig.
- Serious overshadowing and overlooking, direct line of sight into the ground floor level of proposed houses and vice versa.
- Excessive height and structural make-up of the proposed 10 no. semidetached units

- Concerns of the planning authority with respect to rear dormers and height of the houses has not been taken into account by the applicant
- Fail to see how the redesign proposed by the planning authority would lead to any compromise of accommodation for future occupants.
- The proposed louvers to the dormer windows will not prevent overlooking of rear gardens in Glencarraigh
- Welcome the development, however, request that the Board recommends actions in accordance with concerns raised.
- Appeal accompanied with:
  - Notification of decision to grant planning permission Reg. Ref. F15A/0303

**5.3 A third party appeal has been lodged by Kieran O'Malley & Co. Ltd. on behalf of Sr. Martina Phelan, Dominican Sisters Region of Ireland, Mary Bellew House, Dominican Campus, Cabra, Dublin 7.** The grounds of appeal are summarised as follows:

- Appellant owns Santa Sabina Convent and the Schools at Greenfield Road Sutton.
- The Dominican Sisters sold the application lands to Park Developments (Dublin) Ltd with an obligation to construct a road of sufficient standard to serve the residential development and the school / convent from Greenfield Road.
- The application contains virtually no information regarding the proposed access at the school and convent or the proposed measures to ensure the continued safe means of access during the construction phase.
- Concerns centre on the proposed access arrangement and in particular how the improved access road will serve the school and convent
- Concern has been raised to FCC with respect to lack of consultation with the Dominican Sisters, no reference to the approved access at the school / convent (Reg. Ref. F08A/0441), lack of clarity with regard to the nature and extent of the proposed access improvements.

- Request that An Bord Pleanála invite the applicant to clarify the nature and extent of the works along the existing access road within the appeal site.
- The lodged plans do not adequately explain how the proposals will cater for the safe movement of pedestrians, cyclists and other road users through the application site between Greenfield Road and the school / convent.
- Appeal Accompanied with:
  - Third Party Planning Submission dated July 31<sup>st</sup> 2015
  - Notification of decision to grant planning permission Reg. Ref. F15A/0303

## **6.0 RESPONSES**

**6.1 A response has been received from the Planning Authority.** The response is summarised as follows:

- Satisfied that the development as proposed will not result in a traffic hazard for those accessing / egressing the school
- Satisfied with the proposed pedestrian and cycle facilities
- The issue in relation to breach of contract is a civil matter which the p.a. cannot adjudicate on.
- A construction management plan can only be agreed at a later stage once a contractor for the development has been appointed and full details of the site management can be worked up
- A construction Management Plan is appropriate
- Water Services examined the Flood Risk Assessment submitted and are satisfied that the proposal meets the required criteria for the site.
- The proposed development has been adequately designed and assessed
- The planning authority cannot adjudicate on the existing surface water issues within the school site which is outside of the control of the applicant.

- The proposal is not a material contravention of the County Development Plan
- In the event that the decision of the p.a. is upheld request that Condition no. 18, 30, 31 and 32 are included in any determination.

**6.2 A response to the third party appeals has been received from MacCabe Durney Barnes on behalf of Parsis Limited.** The response is summarised as follows:

- Sets out planning history of the subject appeal site.
- The Dominican Sisters sold a parcel of land (1.55 ha) adjacent to Santa Sabina Secondary School
- A right of way was retained by the Sisters over the existing driveway / avenue.
- On foot of PL06F.226189 permission was refused by An Bord Pleanala for 130 number dwelling units and a crèche for one reason relating to excessive density and over development of the site. An appeal was not taken by the BOM or by the Congregation of Sisters
- During the course of PL06F.226189 / Reg. Ref. F06A/1099 FCC requested a revised access layout in order to retain the trees on the avenue. The revised proposed access was designed after consultation with the school representatives.
- On foot of PL06F.232541 (Reg. Ref. F08A/0441) – adjacent site to appeal site, the Board granted planning permission in July 2009 to the congregation of Dominican Sisters for a new entrance and access road, cycle way and separate pavements to service the school and convent together with associated signage within curtilage of protected structures. This permission has been extended until 19<sup>th</sup> July 2019.
- The location of the permitted access way is to the east of the appeal site and wholly within the ownership of the Sisters.
- Cognisance should be had that on foot of PL06F.235619 permission was granted by the Board for 99 residential units, a crèche on the appeal site.

- Under PL06F.235619 permission was granted for residential blocks which were 4 storeys high, this application included the revised access design as requested by FCC in PL06F.232541 / F08A/0441
- Condition 2 (c) of PL06F.235619 is of note: it requires that the footpath be relocated so as to provide a minimum of 1 m separation between the ground floor apartment units in Block 3 and the footpath. The intervening area shall be landscaped to provide screening for the apartment occupants.
- It is noted that in their direction on PL06F.235619 the Board did not agree with the Inspector's recommendation to remove apartments from the second and third floor levels of Blocks A, B and C and the removal of attic accommodation from Block D having regard to the sunlight analysis submitted and the distance of the dwellings from houses in Glencarraig Estate.
- Having received a grant of planning permission from the p.a and the Board, PL06F.235619 did not proceed due to economic down turn.
- The current application is very similar to that permitted in terms of access, no. of units and location of units and landscaping.
- More consideration has been given to drainage provisions and apartment standards.
- The applicants purchased the parcel of land and are upholding their obligation to maintain a right of way to the school and convent.
- The school has permission to build a second access road to the school and it was stated during the application for extension of duration of permission, F08A/0441E1, that the works were important to the school and convent and they intend to implement the permitted works.
- Under PL06F.235619 / F09A/0168 permission was granted for the same access, as currently proposed, on that occasion neither the BOM nor the Sisters appealed to the Board.
- The Inspector in the assessment of PL06F.235619 saw no difficulty with the shared access arrangement.
- The school website states that the existing car park is not on school property

- The school website refers to 670 students
- The convent is no longer used by the Sisters and the building and gardens have been given to the school which they intend to develop.
- The school opening hours are stated on the school web site as starting at 8:45 am and finishing at 3:30 pm, 1:55 pm (Friday) or 2:30 pm (Wednesday). Given irregular and early closing time of the school, it reduces any potential conflict with students.
- A number of students do not use the footpath on the northern side of the Avenue and exit the school on the eastern side of the hockey pitch and some exit to the south side of the Avenue.
- It is wholly within the power of the appellants to develop a separate access should they so wish.
- The proposed development which retains the right of way to the school has been designed with good sight lines in both directions and a dedicated footpath with pedestrian priority so that the access will not be a hazard.
- There is currently limited cycling taking place at the school. The reasons for this is unclear.
- As there is no cycle path provided by the school at present and no cycle path in the previous application, a cycle path in this location is not needed to be separate from the proposed access.
- Without prejudice to any legal matters arising, the conditions of sale (no. 6) has not been fully explained. The developer in the first instance in planning PL06F.226189 (F06A/1099) sought a road layout as indicated in item no. 6. This was rejected by the p.a. who sought a revised access.
- The revised access was designed after consultation with the school and has been consistently applied for ever since.
- The retention of trees as required by the p.a. has shaped the site access.
- Issues regarding contractual matters is a matter between the parties.

- Proposed configuration of the residential unit's results in the best layout in terms of open space and residential amenity, proposal has cognisance to the permitted development and consultation with the p.a.
- The small encroachment onto the C1 zoning is not material in planning terms.
- The issue of different zonings was also raised under PL06F.235619 / F09A/0168. The inspector in that case considered that there was no difficulty in a slight encroachment.
- The proposed development of ten houses along the boundary of Glencarraig was included in the previous application before the Board.
- The ridge height of the houses opposing Glencarraig has been reduced by 0.4. The proposed height is similar to that permitted by the Board
- The separation distance to the north is respected with the provision of 11m depth rear gardens.
- Houses in Glencarraig have enjoyed open views across the rear of their houses to date, however, this land is zoned residential and there is currently an unprecedented demand for housing
- The design of steps to the front door was a design response as a result of consultation with FCC Roads Department.
- Response accompanied with technical Note by AECOM
  - Increase in pupil numbers to 700 is acknowledged.
  - The Traffic and Transportation Assessment (TTA) results indicate that the school access will be able to accommodate the predicted level of trips associated with the proposed residential development and the existing school in the opening and future year scenarios.
  - Peak periods are not aligned to school opening and closing times
  - A pedestrian priority ramp has been designed across the new estate road to aid pupils accessing the school upon completion of the residential development.



- With regard to provision for cyclists it was acknowledged the Board granted permission under PL06F.232541 / F08A/0441 for new entrance, access road and cycleway
- During preplanning meetings with FCC the requirement for providing a new cycle lane was not identified due to the extant permission.
- Response accompanied with technical report by JBA Consulting:
  - The Flood Risk Management (FRA) submitted identifies the source and nature of flood risk to the subject site and surrounding lands.
  - The appeal site is located within Flood Zone C and is at low risk of flooding from tidal and fluvial influences and therefore the justification test does not apply.
  - There is topographical fall towards the northern boundary of the site resulting in a localised depression which imparts a potential surface water risk from ponding of rainfall that cannot discharge under gravity to Dublin Bay or infiltrate directly to ground water.
  - Having identified the potential risks the FRA recommends measures to manage same.
    - Site layout and FFL
    - Basement design
    - Drainage design – above and below ground
    - Storm sewer design
    - Foul sewer design
  - Mitigation measures will reduce the potential surface water risk to the site and neighbouring lands
  - Flooding is related to ‘impediment of surface water outfall’ from the school site during high tidal levels, high ground water.
  - Existing deficiencies with school infrastructure are likely to be the primary source of their flooding problems and until such time as the necessary improvement works are undertaken, the school site will continue to experience future flooding.
  - Deficiencies in the school infrastructure should not prevent the development of adjacent sites.

- The FRA robustly assesses flood risk to the site and is in accordance with the planning system and flood risk management guidelines (DoEHLG 2009)

**6.3 A Response has been received from the BOM in response to the appeal submitted on behalf of the Dominican Sisters.** It is summarised as follows:

- The conditions of sale state that separate access infrastructure be provided for the school community.
- The Dominican Sisters were aware of the need for safe access to and from the school.
- The shared access is not designed with safety in mind.
- The developers should be directed to provide 2 footpaths and 2 cycle lanes
- Due to the extensive changes to the original house and site the curtilage of St. Dominic's Convent is deemed to be limited to the immediate area fronting the house.
- There is an erroneous perception in FCC that the existing avenue forms part of the curtilage of the Convent Building (PPS Ref No. 794)
- Alterations are required at the access to facilitate the development and to achieve a curved edge to the proposed path from the entrance to the site. To achieve such a design trees that are alongside the existing path will have to be removed.
- New trees can be planted to replace trees removed to accommodate a cycle path if so required
- The quality of some of the trees is queried
- It is difficult, from the drawings, to make out how many trees will be removed.

## 7.0 OBSERVATIONS

**7.1 An Observation has been received from The Student Council of Santa Sabina Dominican College (Santa Sabina).** It is summarised as follows:

- The proposed development does not take into account the safety of Santa Sabina students.
- The proposal is contrary to DMURS which states the importance of assigning higher priority to pedestrians and cyclists
- FCC is obliged to require the developers to provide a footpath and cycle track that can cater for the number of students in the school today and for increasing enrolment.
- Permission has been granted for a 2m wide footpath which narrows to 1.5m as it adjoins the school site, this is unacceptable for a school of almost 700 students.
- Narrow footpath will lead to pedestrian hazard for students
- Need to future proof wheelchair accessible infrastructure, appropriate sized footpaths.
- Minimum footway widths are based on the space needed for two wheelchairs to pass each other (1.8m)
- DMURS states that '3m is the minimum space for small groups to pass comfortably in areas of moderate to high pedestrian activity' (pg. 87)
- Photographic evidence that the footpath will be an area of high pedestrian activity at the end of a school day
- There is a right of way through the school that residents of Glencarraig use, pedestrian traffic occurs in both directions
- FCC deemed it appropriate to have a wide footpath at Sutton Cross and on the grounds of Chanel College a secondary school in Coolock, same principles should apply to the subject case.
- Inconsistent approach to planning
- Substandard cycle lane which is non continuous through the school site is unacceptable and would give rise to hazard to cyclists

- Concern with respect to construction traffic and conflict with pedestrians at peak morning time.
- Concern of overlooking from two blocks of apartments that are closest to the Spórtlann which will allow residents to watch students during class time and extracurricular activities.
- Requirement to have a 22m separation between houses should apply to the separation between houses and a school.
- Know that the trees at the entrance are protected, however, believe that some of these trees should be cut down to provide / allow a separate cycle lane, road and path into the school.
- The entrance is no longer part of the protected convent building therefore it should be possible to allow for trees to be cut, as people are more important than trees.
- Observation accompanied with photographs.

**7.2 An Observation has been received from Brendan and Rosaleen Kernan.** It is summarised as follows:

- Block D constitutes an infringement of amenities to houses in Glencarraig
- The houses will be constructed on an elevated base, increased height will give all rear windows and rear decks of the new houses a clear view over the boundary wall to the back gardens and rear of the Glencarraig properties.
- Steps to the front and rear of new houses compromises access for small children and the elderly.

## **8.0 PLANNING HISTORY**

**8.1 Reg. Ref. F09A/0168 / PI06F.235619** Permission sought for 99 residential units and a crèche and all associated site works including resurfacing and improvements to entrance that forms part of the curtilage of Santa Sabina Protected Structure, Greenfield Road, Sutton, Dublin 13.

The Board did not agree with the Inspector's recommendation to remove apartments from the second and third floor levels of Blocks A, B and C and the removal of attic accommodation from Block D having regard to the sunlight analysis submitted and the distance of the dwellings from houses in Glencarraig Estate. Thereby reducing the number of residential units to 65, only.

**Permission Granted (July 2010)** I note that Condition 2 of the decision to grant permission amends the development and omits 4 no. apartments, (I note one was omitted by way of A.I.) thereby permission granted by the Board for some 94 residential units.

**8.2 Ref. F06A/1099:** Permission granted on 5th October 2007, for development of 108 housing units and crèche on this site. On appeal by 3rd parties to the Board (**PL 06F.226189**), permission was **refused** on 16th June 2008, for one reason as follows-

*Having regard to the design and the location of the three-storey houses in Block D in close proximity to Glencarraig, the layout and extent of Blocks A, B and C, the proximity of the blocks to each other and to the boundaries of the site and to the recommendations of both the Residential Density Guidelines for Planning Authorities issued by the Department of the Environment and Local Government in September, 1999 and the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in September, 2007, it is considered that the proposed development would constitute an excessive density and overdevelopment of the site and would result in a substandard level of amenity for prospective occupants. The proposed development would seriously injure the amenities of the area and the amenities of future occupants of the proposed residential units and would, therefore, be contrary to the proper planning and sustainable development of the area.*

**8.3 Ref. F08A/1380:** Application for development of 99 residential units and crèche on this site was withdrawn.

**8.4 Ref. F08A/0441:** Permission **granted** for a new entrance and access road, cycleway and separate pavements to service the existing school and convent, together with all associated signage.

**8.5 Ref. F08A/0441/E1:** Permission **granted** for extension of Duration of Ref. F08A/0441. Condition 1 states that the permission shall expire on the 19<sup>th</sup> July 2019.

**8.6 Pre – Planning:** The Planners report indicates that pre – planning discussions took place.

## **9.0 NATIONAL & REGIONAL PLANNING POLICY**

- Quality Housing for Sustainable Communities DoEHLG Best Practice Guidelines 2007
- Sustainable Residential Development Guidelines for Planning Authorities 2009
- Design Manual for Urban Roads and Streets (DMURS) 2013
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2015

## **10.0 LOCAL PLANNING POLICY**

The Fingal County Development Plan 2011 – 2017 (CDP) is the relevant statutory plan.

The bulk of the site is zoned 'RS' – to provide for residential development and to protect and improve residential amenity. The vision for such zones is to ensure that any new development in existing areas would have a minimal impact on existing residential amenity.

The southern part of the site is zoned 'CI' – Community Infrastructure, the objective for which is to provide for and protect civic, religious, community, education, health care and social infrastructure.

The adjoining lands including the school and church grounds on either side are zoned 'CI'.

The buffer zone for the Howth Special Amenity Area Order (SAAO) is over 500 metres to the east of the appeal site.

RPS no. 794: Saint Dominic's Convent (east of the site and part of the sites curtilage) is a Protected Structure. This status relates to the original late 18<sup>th</sup> / early 19<sup>th</sup> century house, only, now the front part of the convent, the original Main Avenue and walled garden feature to the rear only, but does not include the later extensions to the convent of the school buildings.

There is a specific objective, as delineated on the map, to preserve views along Greenfield Road in the vicinity of the site.

There is a specific objective, as delineated on map 10 of the CDP, *'to protect and preserve woodlands and hedgerows'*.

Specific Objective 525 (see sheet no.10 of the CDP) also applies to the appeal site: *'Ensure no development in excess of 3 storeys.'*

A strip of land on the seaward side of the Greenfield Road, opposite the site, is zoned High Amenity.

The relevant sections of the Fingal County Development Plan as they apply to this development are as follows;

Objective UD01 Design appraisal

Objective OS01 Open space in accordance with Green Infrastructure Strategy

Objective OS02B A min 10% of site for public open space

Objective OS16 Require a detailed high quality open space and landscape design plan

Objective OS17 Public open space accessibility

Objective OS19 & 20 Ensure public open space appropriately located and apportioned

Objective OS25 SuDS and Open Space provision

Objective OS26 Provide appropriately scaled children's playground facilities

Objective OS27 Children's playground to occupy no less than 0.02 ha

Objective OS35 Adequate levels of privacy for residents, minimum standard of 22m separation between directly opposing rear first floor windows.

Objective OS36 Ensure private open space for all residents is not overshadowed.

Objective OS37 Boundary treatment associated with private open space is designed to protect residential amenity.

Objective OS38 Sets out minimum open space provision for dwellings houses – 3 bedroom min 60 sq. m and 4 bedroom 75 sq. m min)

Objective RD19 – 2.3 m separation between flank walls

Objective GI29 Requirement for a riparian strip of 10 – 15 m along all water courses

Objective RD13 requires all new units comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice

Objective SW04 Requires the use of sustainable urban drainage systems (SuDS)

## **11.0 ASSESSMENT**

I have read through the file documentation, the relevant provisions of the County Development Plan and have carried out a site inspection. In my judgement the principle factors for consideration in this appeal relate to:

### **11.1 Principle of the Proposed Development**

### **11.2 Traffic and Access**

### **11.3 Drainage and Flooding**

### **11.4 Impact Upon Adjoining Residential Amenity**

### **11.5 Other Issues**

### **11.6 Appropriate Assessment (AA)**



## 11.1 Principle of the Proposed Development

The subject appeal site comprises 1.559 ha of land and is located to the north of Greenfield Road, some 600m to the southeast of Sutton Cross, c.11km from Dublin City Centre and over 1km from Sutton DART station. The lands form part of the grounds of the existing Santa Sabina School and Convent. The original proposal comprised 4 apartment blocks of 71 residential units and a crèche facility (25 children), over a basement car park to accommodate 121 cars and additional surface car parking. The apartment buildings are 3 storey in height, with two blocks of apartments (A-B1 & B2-B3) facing onto the open sports ground of the school and two similar blocks of apartments to the rear (C1 and C2). In addition it is proposed to construct 10 semi – detached dwellings 2 and 3 storey in height along the rear boundary of the site. This proposal was amended by way of Additional Information (A.I) and Clarification of Additional Information (C.A.I) submitted to the p.a.

The applicant revised the number of apartments from 71 to 68 and repositioned blocks C1 and C2 on the site, moving them approx. 1.6m east on the site / towards the boundary with the school. Block A-B1 has been repositioned approx. 1.5m east, Block B2-B3 is in largely the same position, with the distance between these two blocks reduced by 2m from 6.345m to 4.075m

The principle portion of the site (central and northern portion) is zoned for residential use, while a small portion of the overall site (to the south and the access) is zoned as 'CI' Community Infrastructure. It is acknowledged that part of proposed apartments, Blocks B2-B3 and C2 encroach onto the lands zoned 'CI'. However, cognisance is had to the Inner Suburban / Infill nature of the appeal site and precedence set on the site.

Permission was granted in July 2010, by the planning authority and An Bord Pleanála, on foot of Reg. Ref. F09A/0168 / PL06F.235619 for some 94 residential units on this site. The issue of encroachment onto 'open space' zoned lands was raised as an issue in that case and it was considered that

there was no difficulty with a slight encroachment on lands zoned open space, I am of the view in agreement with the planning authority that the subject proposal is not a material contravention of the development plan and that the proposal complies with the zoning objectives for the area as defined in the Fingal County Development Plan 2011 – 2017.

The subject proposal bares a strong similarity, in terms of access, layout architectural design and finishes to that permitted on the site on foot of Reg. Ref. F09A/0168 / PL06F.235619. The front blocks of apartments which previously consisted of four individual pavilion blocks are redesigned into two blocks but with a recessed indentation echoing the separation of the previous pavilion blocks. I note and agree with the detailed design amendments relating to size, orientation, screening and repositioning of private open space (balconies), incorporation of privacy strip to the southern aspect of Block B2 and C, redesign of the northern elevation of block C2 and revised layout of the road and entrance to the car park, within curtilage car parking, amendment to pedestrian crossing and set down area for the crèche, requested by the planning authority by way of A.I and CAI. I consider such amendments are necessary and contribute positively to the overall design.

The Fingal Development Plan includes a local objective No. 525 on the site which states: *'Ensure no development in excess of three storeys.'* The proposed development has been reduced by one storey to three storey, where approval had previously been granted in the past for a four storey development, on foot of Ref. F09A/0168 / PL06F.235619. It is submitted by the applicant that this permission was not carried to due to the economic down turn.

The density permitted on the appeal site, on foot of Ref. F09A/0168 / PL06F.235619 equated to 60 units per ha and as currently proposed equates to some 50 units per hectare (was initially, prior to redesign, 52 units per hectare).

The appeal site may be described as an 'inner suburban / infill site'. It is served by a public transport corridor and is within walking distance of Sutton dart station with a bus route in immediate proximity which joins the QBC in Clontarf. I note, that the Board and the planning authority previously accepted that the site was suitable for increased density. I am of the opinion that a suburban residential density to that which exists in Glencarraig estate would not be appropriate, given the current demand for housing in the city and principles of sustainable use of zoned serviced lands. I note that the proposed density reflects the reduction of one floor as introduced in the current Development Plan and as recommended by the Inspector in his assessment of Ref. F09A/0168 / PL06F.235619. Albeit that the Board did not agree with the Inspector's recommendation to remove apartments from the second and third floor levels of Blocks A, B and C and the removal of attic accommodation from Block D having regard to the sunlight analysis submitted and the distance of the dwellings from houses in Glencarraig Estate.

Third party concern has been raised with respect to negative impact upon residential amenity, access and transportation issues, issues raised are assessed in detail in subsequent sections of this report. However in respect of existing character and pattern of development it is my opinion that the mix, layout, design, heights and finishes proposed has regard to County Development Plan policy, precedent permission Ref. F09A/0168 / PL06F.235619 and surrounding existing development.

I consider that the overall design of the scheme is reasonable within a suburban area which does not have any particular architectural character or external finish materials of choice. I agree with the previous Inspector in his assessment of PL06F.235619, on foot of which a development of similarly designed apartments and houses were considered acceptable, that the introduction of flat-roofed blocks will not be out of place in the context of the number of flat-roofed elements within the built fabric of the school complex. Site section elevation drawings SCsc(fi)01-10 submitted by way of F.I. on the 19.10.2015 are noted. External finishes of brick, render and stone cladding to Block D and render façade with external balcony frame and glass balcony to

Blocks A,-B1, B2-B3, C1-C3 and C2 are appropriate within this area. I consider the proposal would benefit from additional information in respect of finish in particular roof finish of the apartment blocks. I recommend that should permission be forthcoming, from An Bord Pleanala, that details of all external wall and roof finishes should be agreed with the p.a. prior to commencement of any development on this site. This can be dealt with by way of condition.

## **11.2 Traffic and Access**

It is proposed to access the development via the existing avenue access from Greenfield Road. The development access road is proposed to travel in a north direction to a new priority controlled junction within the site, see Drg. 'Proposed General Arrangement' sheet no. 60430275-SHT-10-C-100, submitted to the p.a. on the 10<sup>th</sup> February 2016. This new junction would facilitate access to the existing Santa Sabina School with ramp for pedestrian priority. A pedestrian footpath is proposed along the new access road to the development, which is 1.8m in width, consistent with the requirements in DMURS (2013). The proposal proposes to improve the existing pedestrian access avenue that connects Greenfield Road to Santa Sabina College.

The appeal site, formerly, formed part of the adjacent Santa Sabina Secondary School and convent. The lands were sold and a right of way over the parcel of land was retained by the Congregation of Dominican Sisters over the existing driveway / avenue. Concern is expressed with respect to how the proposal will cater for the safe movement of pedestrians, cyclists and other road users through the application site between Greenfield Road and the school / convent.

Permission has been granted by the p.a. on three occasions for a residential development on this site. The initial planning application PL06F.226189 / Reg. Ref. F06A/1099 was refused by the Board, June 2008, (overturning the decision of the p.a.) for 130 dwelling units and a crèche for, one reason, only, relating to excessive density and over development of the site. During the

course of the application Fingal County Council requested a revised access layout, which corresponds to the access layout now proposed, in order to retain the trees on the avenue.

The subsequent planning application PL06F.235619 / Reg. Ref. F09A/0168 was granted by both the p.a. and An Bord Pleanala, in July 2010, for 94 residential units and a crèche and included the revised access design as requested by FCC in PL06F.226189 / Reg. Ref. F06A/1099 and currently proposed.

Concerns raised with respect to utilising the existing school access, to serve the proposed residential development, have previously been raised and considered by the p.a. and the Board on appeal. I agree with the Inspector in his assessment of PL06F.235619 that there is no foreseen difficulty with the shared access proposed – provided appropriate pedestrian crossings for school children are put in place. The proposed development is located in a 50 km/hr speed limit. It is essentially a modification to a previously approved design. The proposed development has fewer units than previously permitted. The Traffic Impact Assessment demonstrates that the proposed development will have no adverse impact on the surrounding road network. I note that a comprehensively designed pedestrian crossing is proposed (ref to Drg. No. 60430275-SHT-10-C-100 submitted by way of C.A.I dated 10/02/16) which would ensure that the development as proposed would not result in a traffic hazard for those egressing / accessing the school and would afford higher priority and right of way to pedestrians. Issues with respect to set down car parking for the crèche, clearance height at the car park entrance, in curtilage car parking for the housing units and omission of car parking spaces adjoining the playground area have been resolved by way of A.I. and C.A.I. The Transportation Department of the Council have no objection to the proposal.

From a review of the planning history for the appeal site and adjoining lands it is clear that the Dominican Sisters intended on foot of selling the land for residential development that they would construct a new access to the school over their lands. I note that permission was granted in July 2009

(PL06F.232541 /Reg. Ref. F08A/0441) to the Congregation of Dominican Sisters for a new entrance and access road, cycle way and separate pavements to service the school and convent. The location of the permitted access way is to the east of the appeal site wholly within the ownership of the Sisters. This permission has been extended until July 2019.

The applicant submits that they purchased the parcel of land from the religious order and are upholding their obligation to maintain a right of way to the school and convent. Third party grounds of appeal contend that the conditions of sale sought to provide for an alternative roadway abutting the boundary of the school to and from the adjoining lands of the vendors. A footpath on the right hand side of the existing road, provision of a cycle way of 1.50m adjoining the footpath and that construction of the roadway and services shall be carried out during the school holiday period. It is of concern to the BOM of Santa Sabina Dominican College that the applicant proposes to use the same vehicular access as the school thus ignoring, it is submitted, contractual obligations. The first party submit, without prejudice, that in the first instance, planning application PL06F.226189 / Reg. Ref. F06A/1099 sought a road layout as set out in Condition 6. However, this was rejected by the p.a. who sought a revised access. The revised access was designed after consultation with the school and has been consistently applied for ever since.

It is the opinion of the p.a. that conditions attached to the sale of contract of the site are a civil matter and cannot be adjudicated upon by the p.a. I agree that this matter, is a civil matter and outside of the remit of planning law and thus the remit of An Bord Pleanala.

#### Construction Management Plan

It is the view of the p.a. that a construction management plan can only be agreed at a later stage once a contractor for the development is appointed and full details of the site management can be fully worked up. I recommend that a detailed construction management plan should be submitted to and agreed in writing with the p.a. prior to commencement of development, this

should be subject to condition of any grant of planning permission forthcoming from the Board.

### Car Parking

The number of residential units was amended downwards, from the 81 initially proposed to 78. Taking into account residents parking, visitor parking and crèche parking the proposed development has a requirement for 139 parking spaces. Basement car park for 117 car spaces and 108 bicycle parking spaces is proposed with surface car parking for 43 cars and additional visitor bicycle parking. There are 27 car parking spaces proposed to the front of the house units therefore 2 car parking spaces per dwelling is available and has been designed so that any car parking spaces located to the front of a residential unit are allocated for that respective unit.

The Transportation Department of the Council was satisfied to recommend a grant of planning permission. The proposed development is of a reduced scale to that previously permitted on this site having regard to the fact that issues of traffic, access and parking have already been considered by the Board, and that there has been no significant alteration in circumstances in relation to traffic in this area since the decision of the Board in June 2010, I would consider that the issue of access and traffic is not a reason for refusal of permission in this instance.

### **11.3 Flooding**

Third parties have raised concern with respect to flood risk management. It is submitted that the school has experienced internal and external flooding since the start of the academic year 2015 / 2016, photographic evidence has been submitted to prove this. The BOM of Santa Sabina Dominican College submit that it would be reasonable for the flood risk assessment to provide confirmation of the potential flooding effects on the school property as a consequence of the proposed development.

JBA Consulting carried out a Flood Risk Assessment on the site and concluded that the site was in Flood Zone C at low risk of flooding from tidal and fluvial influences. Flood Zone C is deemed appropriate for 'Higher Vulnerable development (including essential infrastructure) Flood Zone C is deemed not to flood under a one-in-a-thousand year tidal event. The FRS Report concludes that *'A reduction in land levels moving north through the site means that there is a potential surface water risk from the ponding of rainfall that cannot discharge under gravity to Dublin Bay or infiltrate to groundwater. The risk of surface water flooding and residual flood risk from potential overtopping of the Greenfield Road can be effectively managed by the appropriate site design'*.

The planning authority report states:

*'The Flood Zone C rating 'is confirmed by the latest drawing from CFRAM: Drawing No. E09SUH\_EXCCD\_C0\_SH02 dated 3<sup>rd</sup> February 2015. This drawing is based on the detailed consideration of the area following its initial designation as an area for further assessment (AFA)'*.

*'CFRAM is Catchment Flood Risk Assessment and Management. The national CFRAM programme commenced in Ireland in 2011 and is under the aegis of the OPW. This drawing can be examined at [http://mapse.cfram.com/E09SUH\\_EXCCD\\_C0\\_SH02.pdf](http://mapse.cfram.com/E09SUH_EXCCD_C0_SH02.pdf)' (copy attached as appendix to this report)*

I note that the appeal site is not included as a *'draft flood risk area'* as detailed in Sheet 16, Green Infrastructure 3 Map, appended to the County Development Plan 2011 – 2017.

The drainage of the site was designed by JBA Consulting. SuDS devices including green roofs, rainwater butts and an attenuation device were included to ensure that the run-off from the developed site was restricted to that of the undeveloped site. The Flood Risk Assessment and Drainage Assessment submitted with the application, dated June 2015, sets out mitigation measures such as appropriate FFL (FFL raised to a minimum of 4.2mOD, with



appropriate landscaping and road / access levels, raised basement ramp, surface water attenuation and discharge to be at the greenfield runoff rate and land drains to the rear of the site will collect and discharge any potential surface water unable to filtrate lower lying green areas of the site.

I note the third party concern with respect to flooding on the adjoining school site and the concern that the subject development may exacerbation such flooding. Fingal County Council water services department has no objection, subject to condition, to the proposed development. The p.a. appeal response states; *'The p.a. cannot adjudicate on the existing surface water issues within the school site which is outside of the control of the applicant.'*

From information contained on the file, it is my opinion, that mitigation measures would actually reduce the potential surface water risk to the site and neighbouring lands. I agree that deficiencies in the school site are outside of the control of the applicants, need to be resolved on the school site itself and should not prevent the development of an adjacent site. Overall it is my opinion that issues in relation to flooding have been adequately addressed.

#### **11.4 Impact Upon Residential Amenity**

Concern has been raised by residents in Glencarraig with respect to the height of the houses in Block D. Block D, located to the north of the appeal site contains a linear row of 10 no. semidetached houses, 8 no. 2 storey with dormer storey and 2 no. houses, at the western end of the terrace, which are two storey.

Concern is expressed with regard to overshadowing and overlooking from the 2 storey with dormer / 3 storey houses. It is submitted that due to FFL proposed there would be a direct line of sight into the ground floor level of proposed houses and vice versa from opposing houses in Glencarraig. It is argued that the height of the houses is excessive and that the proposed louvers to the dormer windows will not prevent overlooking of rear gardens in Glencarraig.

The response to the initial request for further information reduced the ridge height of the 8 x 3 storey dwelling houses by 400mm. It is submitted to the previously approved level on foot of PL06F.235619. It is argued that to reduce the height further would compromise 3<sup>rd</sup> level accommodation and the introduction of velux roof lights would compromise the amenities and aspect of future residents. The p.a. report acknowledges that An Bord Pleanala did not omit the roof level in the previous permission on this site, PL06F.235619, despite the Inspector's recommendation to do so.

The dwellings in Block D are located between 11m - 13.3m from the northern boundary with Glencarraig, cognisance is had to single storey rear annexes which are proposed to the rear of the 8 x 3 storey dwellings. From a detailed assessment of the site section / elevation drawings and the Block D elevations drawings, submitted by way of C.F.I, I note the following. The dwellings are located on a raised ground level of 1.1m in height, the 3 storey dwellings have a height of 10.82m to apex which gives them an overall height above the ground level of some 12m. The height above ground level indicated on the drawings is 15.02m. Apartment Block C1-C3 has a height of 12m and a height above ground level of 14.58m, Block C2 has a height of 12m with a height above ground level of 14.58m, Block A-B1 has a height of 11.3m with a height above ground level of 14.58m, Block B2-B3 has a height of 11.1m with a height above ground level of 14.58m. I note that the existing sports hall has a floor to ceiling height of 10m with an indicated above ground level height of 13.3m.

It is evident therefore that the 8 x 3 storey houses, while lower in actual height than the apartments, being constructed on higher ground will have a slightly higher ridge level than the apartment blocks. I note that albeit that the Inspector in his assessment of PL06F.235619 considered that the ridge height of the houses (12.5m above existing ground level) proposed along the northern boundary of the site, in a similar matter to Block D, currently proposed, would result in overlooking and overshadowing of adjoining rear gardens, notwithstanding the set back of 15m for first floor rear walls and they

should be amended to remove the dormer element and the entire pitched roof element design, the Board did not agree. It was considered having regard to sunlight analysis and the distance from the houses in Glencarraigh that the layout and height proposed was acceptable. Given the foregoing, and having considered the revised sunlight shadow studies submitted with the architects report, taking into account the separation distances proposed I see no justification to omit the dormer element of Block D or to reduce further the height of the 8 x 3 two storey with dormer dwellings.

I am of the opinion that there are satisfactory separation distances between directly opposing first floor windows, adequate separation distances between the sides of houses and boundary treatment will prevent overlooking or direct line of sight at ground floor level. The existing 2.0 m high wall between the appeal site and the properties to the north in Glencarraig is to remain. Therefore I do not consider that a grant of permission in this instance would result in overlooking / perceived overlooking as to warrant refusal of permission, or as to negatively impact on the existing levels of privacy afforded to the adjacent properties in Glencarraig. I am cognizant that the design for the dwellings is both similar in scale and detail to those already permitted by the Board on foot of PL06F.235619 and no material changes in circumstance has occurred in the intervening period. Regard is also had that the subject development represents a rational use of zoned serviced lands. Overall the proposal is compliant with the development standards set out in the Fingal County Development Plan 2011 – 2017.

## **11.5 Other Issues**

### Overlooking of the School Site

I agree with the opinion of the planning authority that the location of housing and apartments on this residentially zoned land, adjoining a school, is an appropriate use and has been designed in an appropriate manner. Any overlooking into classrooms and into the sports hall from apartments would be extremely limited and the apartments and houses are not adjacent to any

outdoor play area for the school pupils (other than the school pitch which is sufficiently removed from the development.

### Construction Traffic

Third party concern has been raised with respect to impact of construction traffic on safety of pupils. As set out above it is my opinion that the entrance as proposed is acceptable in principle. Subject to good housekeeping by the developer, in conjunction with an approved construction management plan, no material issues should arise with respect to construction traffic, cognisance is had to the finite duration of the construction period and that the adjoining school caters to secondary school children. This issues is considered acceptable subject to a condition being attached to any grant of planning permission which requires a detailed construction management plan being prepared and agreed in writing with the planning authority.

### Conservation Issues

Conservation issues were not raised by 3<sup>rd</sup> parties to this appeal, however, in light of proximity of the appeal site to RPS no. 794: St. Dominic's Convent (east of the site and part of the sites curtilage) Protected Structure and to its proximity to Saint Fintan's RC Church which is currently being assessed for inclusion in the Record of Protected Structures, I have had cognisance to same in my assessment of the proposal.

I note that as the Board previously accepted that there were no negative impacts on the Protected Structure within the neighbouring convent complex or on the adjoining St. Fintan's Church. I see no impediment to a grant of planning permission for the subject proposal on conservation grounds.

I consider it appropriate and desirable to retain trees along the access avenue, regard being had that the protection extends, only, to the front part of the convent, the original main avenue and wall garden feature to the rear. There is a specific objective to preserve views along Greenfield Road in the

vicinity of the site and to protect and preserve woodlands and hedgerows on the appeal site. Conditions 13. (comprehensive landscaping scheme to be agreed with the p.a.), 14. (engagement of a suitably qualified arborist / landscape professional) and 15 (requirement of a tree bond of €50,000) attached to this recommendation to grant planning permission seek to ensure that development is carried out in accordance with objectives of the County Development Plan.

## **11.6 Appropriate Assessment (AA)**

AA screening was undertaken by way of Appropriate Assessment Screening Report, carried out by BioSphere Environmental Services (June 2015).

The report submitted by the first party identified the European sites in proximity of the appeal site as North Dublin Bay SAC and North Bull Island SPA. The SAC and SPA qualifying interests are listed in paragraph 2.2.2 and 2.2.2 of the AA screening report. It sets out the issues of concern namely:

1. Impacts on water quality during construction and operational phases
2. Impacts on birds by disturbance during construction and operational phases
3. Impact on birds by loss of grassland habitat on site.

The AA screening report concludes that the project is not directly connected with or necessary to the management of a Natura 2000 site and significant impacts on the Natura 2000 Network are not foreseen.

The planning authority is satisfied that the proposed development will not either, individually or in combination with other plans or projects give rise to a significant effect on the adjacent SAC and SPA. I note that the p.a. report states: *'Heritage Officer's: Report notes no objection'* and goes on to state: *'The Heritage Officer has carefully considered all the information submitted and is in agreement with the conclusions reached by BES, based on the views of several experts and their submissions and knowledge of this site, that notwithstanding occasional use of this site by Brent Geese and other*

*wetland bird species, this is not a significant feeding site for bird species associated with nearby European Sites.'*

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 000206 North Dublin Bay SAC and No. 004006 North Bull Island SPA, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not therefore required.

## **12.0 RECOMMENDATION**

I have read the submissions on file, visited the site, considered the provisions of the Development Plan and taken into account all other relevant matters. I recommend that planning permission be Granted subject to the conditions set out below.

## **13.0 REASONS AND CONSIDERATIONS**

Having regard to the zoning of the site for residential use, precedent set on the site and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would not adversely affect the setting of a Protected Structure and would be acceptable in terms of public health and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 14.0 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 on the 20<sup>th</sup> August 2015 and the 10<sup>th</sup> February 2015, 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. That this permission authorises 68 residential units and 10 houses, only, each proposed residential unit shall be used as a single dwelling unit.

**Reason:** In the interests of clarity.

3. Details of the materials, colours and textures of all the external finishes to the proposed residential units 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 windows serving all bathrooms, en-suites and walk-in wardrobes shall be permanently fitted and maintained with obscure or stained glass. The use of film is not permitted.

**Reason:** In the interests of proper planning and sustainable development of the area

5. No gates, security barrier or security hut shall be permitted at the main entrances, including the pedestrian entrance to this development.

**Reason:** In the interests of social inclusion.

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

**Reason:** In the interest of public health.

7. Prior to the commencement of development the developer shall submit full details of the proposed boundary treatment with the adjoining school site for the written agreement of the planning authority.

**Reason:** In the interest of visual and residential amenity

8. The proposed childcare facility shall cater for a maximum of 25 children and shall not operate outside the period of 0700 to 1900 hours Monday to Friday inclusive except public holidays, and shall not operate on Saturdays, Sundays or public holidays.

**Reason:** In the interest of residential amenity

9. No residential unit shall be occupied until all the services have been connected thereto and are operational.

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

10. That all public services to the proposed development, including electrical, telephone cables and associated equipment be located underground throughout the entire site.

**Reason:** In the interest of amenity



11. That all necessary measures be taken by the contractor, including the provision of wheel wash facilities, to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

**Reason:** To protect the amenities of the area.

12. The following requirements of the Transportation Planning Section shall be strictly adhered to:

(i) All parking for the residential houses shall be taken within the curtilage of the respective units. Details, including boundary treatment shall be submitted for the written agreement of the planning authority.

(ii) All underground or overhead services and poles shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer's expense.

**Reason:** In the interests of traffic safety

13. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) Existing trees and hedgerows, specifying which are proposed for retention as features of the site landscaping

(ii) The measures to be put in place for the protection of these landscape features during the construction period

(iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.

(iv) Details of screen planting

(v) Details of roadside/street planting, which shall not include prunus species

(vi) Hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) A timescale for implementation

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

**Reason:** In the interest of residential and visual amenity

14. The developer shall engage a suitably qualified arborist / landscape professional for the duration of the development to monitor site development works and to liaise with the Parks and Green Infrastructure Division. Prior to the commencement of any works on site a site meeting shall be arranged between the Parks and Green Infrastructure Division of Fingal County Council and the appointed arboriculture consultant to agree tree protection measures. No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all trees which are to be retained have been protected by appropriate fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds and no lighting of fires over the root spread of tree to be retained.

All works on trees shall follow proper arboricultural techniques conforming to BS3998:2010 Tree Works – Recommendations.

**Reason:** In the interest of residential and visual amenity

15. A tree bond of €50,000 shall be lodged with the Council prior to the commencement of development in order to ensure that the agreed trees are protected and maintained in good condition throughout the course of development.

**Reason:** In the interest of the proper planning and sustainable development of the area and in order to protect the visual amenities of the area

16. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking for existing properties during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

17. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

**Reason:** In the interest of public safety and visual amenity.

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 development shall be managed in accordance with a management scheme which shall be submitted to, and agreed in writing with, the planning authority, prior to the occupation of the development. This scheme shall provide adequate measures relating to the future maintenance of the development; including landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services together with management responsibilities and maintenance schedules

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

20. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interests of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

21. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

22. 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.

23. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in lieu of the shortfall of 1,261 sq. m Public Open Space provided for in the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may

facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

24. 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.

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Fiona Fair  
Planning Inspector  
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