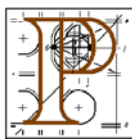


# An Bord Pleanála



## Inspector's Report

**Appeal Reference No:**

PL 29N.246430

**Development:**

PROTECTED STRUCTURE: The development will consist of the provision of a total of 101 no. residential units, the part change of use and part conversion of existing Protected Structure and a new residential nursing home. The development comprises: (1) The demolition of existing 1 no. gate lodge dwelling 1 no. existing outbuilding / shed, and parts of Protected Structure; (2) The part change of use and part conversion of the existing 2-3 storey Protected Structure from convent to residential use with existing church to be retained in full. Internal and external alterations / modifications to existing Protected Structure are also proposed to accommodate residential use. The Protected Structure will now comprise institutional / ecclesiastical and community use on ground, first and second floor with the remaining structure comprising 6 no. apartments (2 no. 1 bed, 2 no. 2 bed & 2 no. 3 bed units) and 3 no. 3 bed, 2 storey terraced dwellings. The existing 1 no. detached 2 bed bungalow associated with Protected Structure, part of walled garden and burial ground are to be retained with new wall to be constructed around burial ground. Alterations to boundary of walled garden are also proposed. (3) The construction of 55 no. residential dwellings as follows; 8 no. semidetached 3 storey (2 no. 4 bed & 6 no. 5 bed) dwellings, 47 no terraced 3 storey (16 no. 4 bed & 31 no. 5 bed) dwellings; (4) The construction of 2 no. apartment blocks as follows- Block A - 3 storey with underground basement car park providing for 16 no. units (2 no. 1 bed apartment units 12 no. 2 bed apartment units and 2 no. 3 bed apartment duplex units) all with balconies; Block B- 4 storey with underground basement car park providing for 20 no. units (2 no. 1 bed units, 16 no. 2 bed units & 2 no. 3 bed units) all with balconies; (5) The construction of a 4 storey, 69 bedroom residential nursing home with roof garden and associated ancillary / common facilities and office / administration areas; (6) The construction of 2 no. basement car parks - 1 no. serving apartment Block B and nursing home comprising 64 no. car parking spaces ( 30 no. designated for residential use and 34 no. spaces for nursing home) and 32 no. bicycle spaces, and 1 no. serving apartment Block A and units within existing Protected Structure comprising 35 no. car parking spaces and 22 no. bicycle spaces. 113 no. surface car parking spaces to serve dwellings. 6 no. surface visitor car parking spaces to serve institutional / ecclesiastical and community use ( total no. of spaces - 226); (7) Construction of 2 no. new vehicular and pedestrian access points on Grace Park Road with existing entrance to be closed. The provision for a new pedestrian / cyclist entrance onto Griffith Avenue; (8) 1 no. esb substation; (9) Boundary

treatments including partial removal of boundary wall along Grace Park Road to provide sightlines and footpath, removal of later additions of boundary wall on Grace Park Road and Griffith Avenue with the existing stone / brick to be reused within development and the relocation of existing piers and gate for reuse within development; (10) Landscaping (including playground), engineering and all site development works necessary to facilitate the development.

### **Planning Application**

Planning Authority: Dublin City Council  
Planning Authority Reg. Ref.: 4105/15  
Applicant: Grelis Ltd.  
Planning Authority Decision: Grant Permission with conditions

### **Planning Appeal**

Appellant(s):  
(i) Mrs E. & Dr J. O'Rourke, Mrs M. & Mr G. Cregan, Grace Park Road, Drumcondra, D.9  
(ii) Mr M. Stanley, Grace Park Terrace, Drumcondra, D. 9  
(iii) Mr D. Milner, Beresford Avenue, Drumcondra, D. 9  
(iv) Beresford Residents c/o Cunnane Stratton Reynolds, Land Planning & Design  
(v) Peter Kelly, Beresford Lawn, Drumcondra, Dublin 9.  
(vi) All Hallows Area Association, c/o O'Neill Town Planning Consultants.  
(vii) Steve & Aisling Dalton, Beresford Avenue, Drumcondra, Dublin 9.

Type of Appeal: Third Party – V - Grant

Observer: Seán Haughey TD

Date of Site Inspection: 14<sup>th</sup> July 2016

**Inspector:** Tom Rabbette

## **1.0 SITE LOCATION AND DESCRIPTION**

The application site is located in Drumcondra in Dublin 9. It is bounded to the north by the tree-lined Griffith Avenue, to the east and south by Grace Park Road, to the west by an established residential development known as Beresford and to the south-west by All Hallows College grounds. There is a row of dwellings also backing onto the site at its southern boundary, these existing dwellings front onto Grace Park Road. The site boundary along Grace Park Road consists of a high wall of some 180 metres length. The site accommodates a former convent that is a protected structure. It appears to have been occupied up until quite recently. The protected structure consists of a number of buildings that make up the convent complex including a detached bungalow to the east of the main building and a church to the front of the convent. There is a small burial ground to the rear of the aforementioned bungalow and it is located just inside the high brick wall that separates the site from Grace Park Road. Immediately to the rear of the convent building there is a walled garden, beyond that are more open lands that appear to have been used for agricultural purposes in the past. Notwithstanding the site's location some 3.5 km from the city centre, it has an open, rural character. There are groups of mature trees at several locations throughout the holding. The main entrance to the holding is located to the south off Grace Park Road. There is a doorway in the Grace Park Road wall which provided access to the lands in the past adjacent the burial ground. There is another doorway in the wall further north but this has been closed permanently with blockwork. There is a residential development located across Grace Park Road from the site, this is known as Grace Park Terrace.

## **2.0 PROPOSED DEVELOPMENT**

As per the initial submission to the planning authority the applicant sought permission for 101 dwelling units. These were to be provided in the form of 55 new-build houses made up of semi-detached, terraced and end-of-terrace houses, all of which are three storeys. The majority of these new-build houses are to be located along the southern and western boundaries of the site. Two apartment blocks are also proposed, one along the eastern site boundary to the north-east of the protected structure and located within the eastern section of its walled garden. This Block A is to contain 16 units over three floors. The second apartment block, referred to as Block B in the application, is located along the Griffith Avenue frontage and is to contain 20 units over four floors. Alterations and modifications works are proposed within the protected structure. These works will create 3 dwellings in the western 'Hermitage' wing of the protected structure and 6 apartments are to be accommodated in the renovated eastern section of the former convent. There is an existing bungalow located adjacent the protected structure and its residential use is to continue. The church and a section of the former convent will remain in religious use. A new-build four storey nursing home is to be located in the north-east corner of the site and will accommodate 69 bedrooms. Two basement car parks are proposed, one beneath apartment Block A with its own access off Grace Park Road to the east and one beneath

the nursing home and apartment Block B. A second vehicular entrance is proposed off Grace Park Road south of the proposed basement car park entrance.

The planning authority sought further information and amended proposals were submitted by the applicant in response. Two site layout options were submitted for the planning authority's consideration. Both reduced the overall number of dwellings to 99. The number of dwellings along the southern boundary was reduced by one and the number of apartments to be accommodated in the eastern part of the protected structure was reduced from 6 to 5 as one of the previously proposed apartment units is now proposed as a child care facility. Both amended site layouts submitted in response to the FI request included pedestrian and cyclist access via Beresford residential scheme to the west of the site and the original vehicular access to the convent to the south off Grace Park Road is now also proposed as a pedestrian and cyclist access route.

The development also contains proposals for extensive landscaping including works to the walled garden to the rear of the convent and works to the boundary wall along Grace Park Road to the east. The application also includes demolition works.

(The 99 units includes an existing bungalow adjacent the convent. The demolition work includes the demolition of a habitable 1960s bungalow located adjacent the gate way entrance to the convent grounds.)

### **3.0 PLANNING HISTORY**

0404/15: Social Housing Exemption Cert granted in relation to the development.

1659/97: Permission granted for a public prayer centre.

PAC 0111/15: Pre-application consultation meeting dated 11/03/15: Issues raised included: protected structure; density; height; open space provision; design; parking; masterplan requirement of Z15 zoning, and retention of trees.

PAC 0302/15: Pre-application consultation meeting dated 16/06/15: Issues raised included: density; height; open space; scale; design; parking; convent extension; boundaries; impact on existing residential amenity, and roads.

Planning Histories in the wider area:

2991/15 (PL 29N.245745): The Board granted permission subject to conditions for a residential scheme of 166 dwelling units on lands zoned Z15 at St. Joseph's off Grace Park Road, Drumcondra to the south-east of the current appeal site (Order in attached appendix).

2347/15 (PL 29N.245580): The Board granted permission subject to conditions for a residential scheme of 101 dwelling units on a site off Griffith Avenue, Marino to the east of the current appeal site (Order in attached appendix).

#### **4.0 PLANNING AUTHORITY DECISION**

##### **4.1 Planning and technical reports**

Planner's Report dated 27/01/16:

- FI recommended.

Report dated 18/03/16:

- FI response noted and considered.
- Permission recommended subject to conditions.

Roads, Streets & Traffic Department – Road Planning Division Report dated 20/01/16:

- FI recommended.

Report dated 04/03/16:

- FI response noted and considered.
- No objection subject to conditions.

Conservation Officer Report dated 26/01/16:

- Permission recommended subject to conditions.

Housing Development, Housing & Residential Services DCC Report dated 10/11/15:

- Agreement between DCC and the applicant concerning Part V compliance.

City Archaeologist's Report dated 18/12/15:

- Condition recommended.

DCC Environmental Health Officer Report dated 18/12/15:

- Conditions recommended.

Drainage Division Report

- No objection subject to conditions.

Transport Infrastructure Ireland Report dated 23/12/15:

- Metro North S.49 levy applies.

Objections/observations: Objections/observations on file addressed to the p.a. make reference to the following: scale; building heights; operational stage traffic impacts; construction stage impacts including traffic impacts; impact on sunlight access; overlooking; loss of trees; impact on badger set; no school places available in the area; existing traffic problems in the area; insufficient car parking; Z15 zoning; new entrance at bend in the public road; overshadowing; over-development on the site; creation of an area prone to anti-social behaviour; inadequate turning bays provided;

inadequate footpaths being proposed; impact on vistas; impact on the protected structure; cumulative impact of this and other developments recently granted in the area; open space provision on site; loss of existing open space; proposed entrance to basement car park; inadequate public transport serving the area; drainage problems in the area; water pressure problem in the area; inadequate child care facilities in the area; flooding concerns; traffic planned to be run through adjacent residential development; scale of proposed excavation; impact on biodiversity of the site; compliance with development control standards of the CDP; need for updated photomontages, and Part V procedure questioned.

#### **4.2 Planning Authority Decision**

By Order dated 18/03/16 the planning authority decided to grant permission subject to 25 conditions.

#### **5.0 GROUNDS OF APPEAL**

Mrs E. & Dr J. O'Rourke, Mrs M. & Mr G. Cregan, Grace Park Road, Drumcondra, D.9

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

- Appellants refer to the Z15 zoning.
- The gradual ascent of the road will exaggerate the height and scale of all of the proposed buildings.
- This constitutes an abrupt transition in scale between zonings and in no way upholds the objectives as set out in Z15.
- The design is not in keeping with the existing pattern in terms of scale, height, character and finish.
- Concerns raised in relation to loss of vegetation and trees.
- The appellants quote from the 'The Screening Report for Appropriate Assessment' in relation to trees on the site, locally important habitats, badger sets and species of bats.
- A large number of mature trees will be removed.
- This will not retain the mature parkland characteristics of the site as it currently is.
- The existing wall that is to be removed in parts and lowered in other parts, forms part of the built environment along Grace Park Road and to alter it in such a radical fashion will completely destroy the character of the road and give existing residents no buffer or privacy from the proposed development.
- Impacts on badger sets and bat roosting area.
- Increased traffic congestion.
- Concerns raised in relation to vehicular access to Block A.
- Traffic concerns include potential impact on an education centre for visually impaired children in the vicinity of the site.
- Reference is made to other recently approved developments in the area and the cumulative traffic impacts arising.

- Before all traffic issues are examined thoroughly and recommendations implemented, it is premature to consider further developments.
- Reference is made to water pressure problems existing in the area and the age of the water supply infrastructure.
- Reference is made to the p.a. Drainage Division issues raised.
- Concerns raised in relation to flood risk.
- Permission should be refused based on an already overburdened and inappropriate foul waste management facilities.
- Appellants' privacy will be significantly and permanently compromised.
- Several of the balconies from Block A will have a direct line of vision into the appellants' bedrooms.
- The amenity value of their garden will also be completely eroded.
- The appellants object to the height and density and have grave concerns relating to the proposed vehicular access point to Block A.

Mr M. Stanley, Grace Park Terrace, Drumcondra, D. 9

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

- Impact on traffic in the area.
- Grace Park Road is routinely backlogged travelling south in the mornings and north in the evenings.
- The proposed development is just one of several nearing completion or approved for development in the area.
- Permission should be refused for any further significant developments until a traffic cell analysis study is completed and all associated actions implemented.
- Operation stage and construction stage traffic impact concerns raised.
- Concerns raised in relation to entrances/exits onto Grace Park Road.
- The only national school for visually impaired and blind children is a few hundred meters south of the proposed development.
- There should only be one entrance off Grace Park Road with all other entrances to proposed underground car parks to be located within the development.
- Concerns raised in relation to heights proposed relative to existing developments with consequences for overlooking of these existing neighbouring properties.
- There is very little open space provided for in the proposed development.
- The appellant questions the adequacy of car parking provision to serve the development.
- Concerns raised about the use of the existing site entrance for use as a pedestrian and cycle access route.
- An appropriate portion of the units should be used for social housing.
- Permission should be refused in the interests of future residents of the development as well as for the existing community and residents and students at the school for visually impaired children.
- An LAP should be developed for the area.

Mr D. Milner, Beresford Avenue, Drumcondra, D. 9

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

- The appellant objects to the inclusion of a pedestrian and cyclist access through the boundary wall at Beresford Avenue cul-de-sac and alterations to the road junction layout at Griffith Avenue and Grace Park Road.
- Many of the residents were unaware of this access proposal as it was based on revised drawings submitted to the p.a. but was not subject of public notifications.
- Concerns raised in relation to the p.a. requirement to increase the width of Grace Park Road junction to allow for a right turning lane onto Griffith Avenue.
- The existing houses on the eastern boundary of Beresford estate will suffer from loss of sunlight and privacy due to height and proximity of the proposed new three storey houses.
- The proposal is not in accordance with the Z15 zoning, specific reference made to the splitting up of public open space provision.
- Additional road traffic will be generated in the area that is already experiencing difficulty, other developments are under construction in the vicinity at present.
- The development is located in an area where there is a deficit of community parks and playgrounds as referred to by a p.a. internal report.
- The DCC approach to a democratic planning procedure has been unsatisfactory for the residents of the surrounding area. The intention to breach the existing wall at Beresford cul-de-sac was not made evident.

Beresford Residents c/o Cunnane Stratton Reynolds, Land Planning & Design

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

- The correct planning procedure was not adhered to in relation to Art. 19 of the P & D Regs.
- The application proposes to demolish buildings that are within the curtilage of a protected structure which will thereby irreversibly alter the character of the protected structure and its setting.
- The development would result in inappropriate layout and overlooking of existing residential properties at the Beresford Estate causing serious injury to residential amenity.
- The proposed development would result in an unacceptable disamenity for properties in the Beresford Estate and is not in accordance with planning guidelines and BRE 209.
- The proposed pedestrian and cycle lanes accesses will not increase permeability in the area and would give rise to anti-social behaviour.
- The proposed development contravenes the zoning objective for the site.
- The proposed development is out of character with the established pattern of development and fails to have regard to the urban grain and built form of the surrounding area.



- The appellants refer to a proposal on Sybil Hill Road, ref; PL 29N.244588, and the Board's decision which they hold is a precedent in the context of the current appeal.
- The submitted masterplan fails to create a meaningful connection with the wider area and it fails to address the frontage to Grace Park Road so as to respect the patterns of development already evident in the area.
- The proposal fails to have regard to the prevailing heights of existing properties.
- The FI submitted on the 25/02/16 included a revised site layout plan that incorporated the provision of an access point for pedestrians and cyclist into Beresford Avenue to the west of the site.
- This proposed access did not form part of the original planning application.
- There was never a site notice placed at this proposed access at either the initial application lodgement or at the FI stage.
- If the Board forms the view that any of the relevant requirements of the regulations had not been complied within the application, the Board should refuse to determine the application on the grounds that it has been invalidly made.
- The proposal includes the demolition of several structures abutting the main building as well as the gate lodge.
- The gate lodge, outbuildings and the grounds of the Convent form part of the setting of the protected structure.
- It must be demonstrated that there are exceptional circumstances to justify the demolition of part of a protected structure.
- The proposed development if permitted will give rise to overlooking to the existing residents of Beresford Lawn and Beresford Avenue.
- There are sufficient lands at the subject site to provide for acceptable separation distances and respect the character of the setting.
- In many instances the proposed dwellings do not meet the accepted separation distance of 22 m and in this situation it is deemed appropriate to increase the minimum separation distance to 35 m, as detailed in the 1999 Planning Guidelines.
- It is considered that the proposed development, especially along the western boundary will give rise to an unacceptable level of overshadowing and does not meet the standards as set out in Ministerial Guidelines or in BRE 209 Site Layout Planning for Daylight and Sunlight.
- The scheme has been designed so that the proposed dwellings are cramped too close to the site boundaries which will cause an irreversible negative impact on existing residential amenity.
- The proposed scheme includes three new pedestrian and cycle access points from Griffith Avenue, Grace Park Road and Beresford Avenue, these accesses are seriously flawed and dysfunctional.
- The provision of the pedestrian and cyclist access at Beresford Avenue would not help to increase permeability in this area of Drumcondra, the access is considered unwarranted.

- With regards to the proposed pedestrian and cycle access at Grace Park Road, it is considered this area will give rise to anti-social behaviour as well as littering and vandalism.
- It is considered that the proposed development contravenes the Z15 land-use zoning objective for the site.
- The proposed development fails to integrate with the surrounding residential area.
- Griffith Avenue is famously known as the longest tree lined avenue in Europe, along both sides of Griffith Avenue there is an established building line to which nearly all properties adhere to, the proposed development does not adhere to this building line.
- The development fails to provide active frontage onto Grace Park Road.

Peter Kelly, Beresford Lawn, Drumcondra, Dublin 9.

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

- The Board is requested to overturn the p.a. decision.
- The proposed development if permitted would result in inappropriate layout and overlooking of his property causing serious problems regarding lack of light and invasion of privacy.
- The proposed development is out of character with the established pattern of development and fails to have regard to the urban grain and built form of the surrounding area.
- The proposed development would result in an unacceptable disamenity for properties in the Beresford Estate and is not in accordance with Planning Guidelines and BRE 209.
- The correct planning procedure was not adhered to in relation to article 19 of the Planning & Development Regulations 2001 (as amended).
- The proposed pedestrian and cycle lanes accesses will not increase permeability in the area and would give rise to anti-social behaviour.
- It contravenes the zoning objective for the site.
- The proposed development would seriously injure residential amenity by way of overlooking, overshadowing and the creation of pedestrian links that would lead to anti-social behaviour.
- The proposal is completely out of context with the existing character of the Carmelite Covent grounds and the wider residential area.
- Appellant refers to the Board's decision in PL29N.244588.
- The development fails to create a meaningful connection with the wider area and fails to address the frontage to Grace Park Road.
- The proposed access to Beresford Avenue following the FI request should have been advertised as such by the erecting of a site notice and advertising in a newspaper at the further information stage.
- This amendment along with the proposed accesses from Grace Park Road and Griffith Avenue is a significant deviation from the original submitted plans.
- The Board should refuse to determine the application on the grounds that it has been invalidly made.

- The proposed house types have living spaces on the first and second floor would give rise to considerable overlooking and loss of privacy.
- From a third floor or attic window the private rear garden of nos. 1, 3, 5, 7, 9, 11, 13, 15, 17 Beresford Avenue and nos. 9, 10, 11, 12 Beresford Lawn will be completely overlooked due to inadequate separation distance as currently proposed.
- The applicant has not definitively demonstrated the proposed development will not overshadow the existing properties and their private amenity spaces in the Beresford Estate.
- Concerned that visitors and staff in the nursing home will park in Beresford.
- The accesses proposed off Griffith Avenue, Grace Park Road and Beresford Avenue are seriously flawed and dysfunctional.
- The provision of the pedestrian and cyclist access at Beresford Avenue would not help to increase permeability in this area of Drumcondra and thus is unwarranted.
- It is considered that the building line would mirror that of Nos. 150 and 152 Griffith Avenue to the east.

All Hallows Area Association, c/o O'Neill Town Planning Consultants.

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

- The proposed development does not comply with the Residential Density Guidelines or the CDP.
- With reference to DCC's in-house study on institutional lands at All Hallows College, Carmelite Convent, Pobal Scoile Rosmini/St. Joseph's, St. Vincent's and Holy Cross College/Archbishops House and a Wider Area Traffic Cell Analysis, the underlying strategic planning framework does not appear to be in place to allow an informed decision on whether another large tract of institutional land should be allowed slip from what are community orientated development management objectives to a purely private residential scheme devoid of any real community focus.
- The development fails to comply with the zoning objective.
- The appellants refer to s.15.10.14 and s.15.3 of the CDP.
- The public open space provision shortfall does not comply with the CDP.
- Levies in lieu of public open space are not acceptable on Z15 zoned lands.
- The proposal to remove almost all of the trees closest to Griffith Avenue and at the proposed Grace Park Road entrance flies in the face of the objective to retain the historic landscape value of the existing public open space on the lands.
- Appellants refer to s.17.10.02 concerning development within the curtilage of a protected structure.
- It is regrettable that the proposed development particularly the apartment blocks and the nursing home, has chosen not to integrate with, and acknowledge, the rich and varied buildings to be retained on site.
- It is considered that the development is not in accordance with policy QH6 of the CDP.

- The development is not in accordance with policy NC2.
- The development, which is not taking place in a residentially zoned area, fails to meet the standards required and must be seen as an unnecessary and damaging intrusion into a well-established residential area in a very pleasant environmental setting.
- Without a LAP for the overall area, it is difficult to see how the p.a. can accept another mono private residential land use when there is no evidential information to say that community, educational, recreational uses are not required in the general area.
- There are a number of traffic and road safety issues that have not been adequately dealt with by the applicants or the p.a.
- Appellants refer to a proposed cycle route on Grace Park Road as per the NTA's GDA Cycle Network Plan, the applicant does not appear to provide for this.
- Appellants also refer to DMURS.
- Appellants question if the sightlines provided are adequate as cars have been observed travelling faster than the 50KPH limit on the road.
- It is unclear if the vehicular access from the car park to Grace Park Road provides an appropriate threshold/level platform at the egress point onto Grace Park Road.
- Vehicles accelerating from the car park upon egress require ample distance for breaking/reaction upon encountering pedestrians and cyclists on the western side of Grace Park Road.

Steve & Aisling Dalton, Beresford Avenue, Drumcondra, Dublin 9.

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

- The development is contrary to the zoning for the lands.
- It would not secure the aims of the zoning objectives for the area.
- It represents a gross overdevelopment of Z15 institutional lands.
- The genuine concerns of residents in the Beresford Estate and in particular those located around the boundary of the site have been completely ignored by DCC.
- The height and density of the residential houses, apartment blocks and nursing home are completely out of keeping with the established pattern of development along the boundary of the site and the immediate area.
- The additional public entrances and in particular the entrance into the Beresford Estate represent a material change to the development which the public have not had an opportunity to assess and provide comment on through the normal planning process.
- The decision of DCC should be overturned/invalidated for this reason.
- The appellants' property will be overlooked by up to 12 of the residential units being proposed due to the design and angle of the properties being developed along the western boundary of the site.

- Overlooking concerns relate to residential units F, the 4 storey apartment block, and the nursing home including its roof garden and social rooms across various floors.
- Concerns raised about proposals relating to existing trees to the rear of the appellants' property.
- The design of the nursing home is another example of the proposed overdevelopment of these Z15 lands.
- The institutional use is simply being 'moved on' to allow developers attempt to construct large scale fully fledged residential developments on land which is neither zoned residential nor suited to residential development at this scale and density given the protected structures and in many cases unique historical context and setting of the lands.
- The proposed development will permanently destroy the vast majority of the protected structure (contrary to policy FC30) and landscape associated with the site, while permanently altering the curtilage, setting, special character as well as the cultural and visual amenity of any remaining buildings.
- The Board is requested to overturn the p.a. decision.

## **6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL**

### **6.1 Planning Authority response**

There is no response to the ground of appeal from the p.a. on file.

### **6.2 First party response**

The contents of the first party's response to the grounds of appeal from M. Stanley, S. & A. Dalton, P. Kelly, E. & J. O'Rourke, M. & Cregan, D. Milner, Beresford Residents and All Hallows Area Association can be summarised as follows:

- The development fully complies with the CDP with regard to the Z15 zoning, unit types, minimum floor area, height, density, separation distance and protection of residential amenity.
- Access to the development was agreed on site with the Roads Department of DCC prior to the purchase of the lands and all engineering proposals with regards to access, sightlines, parking, surface water, drainage etc. are in accordance with the CDP.
- The applicant refers the Board to the masterplan submitted with the application as required by the Z15 zoning.
- The additional access from Grace Park Road to the basement car park of apartment Block A and the existing protected structure is for resident access only and does not impact on the protected structure, walled garden, burial ground or bungalow which have architectural importance.
- The residential nursing home development will be buffered from the surrounding environment by the extensive band of trees of Griffith Ave.

and comprises ancillary/common facilities as well as a private roof garden.

- The dwellings and apartments are suitable for all family and age demographics.
- The proposed development provides for 25% of public open space with private communal space provided for residents of the apartments.
- The public open space is permeable and accessible and used to create linkages to the surrounding area.
- The development seeks to provide 25% public open space whilst retaining essential characteristics of the lands including trees, walled garden and burial ground.
- The proposed development will make a positive contribution to the existing community by creating new places and spaces that are accessible not only to the residents of the scheme but also to the members of the public.
- With reference to article 35 of the Planning & Development Regulations and section 5.9 of the Development Management Guidelines, the applicant holds that revised notices at FI stage were not required as insinuated by the appellants. DCC as the competent authority made a judgement and determined that the additional information submitted did not constitute significant additional data.
- The applicant will rely on the Board's professional judgement to assess and settle this matter.
- Given the location of existing dwellings which will be in excess of 22 m from proposed first floor bedroom windows, the proposed rear garden depths and the retention of hedgerows and/or trees, it is submitted that the residential amenities of existing dwellings will not be impacted unduly by way of overlooking.
- The proposed apartments are some 42 m from the dwellings in Beresford and far exceed separation distances.
- The proposed nursing home is in excess of 82 m from the existing dwellings and will not be in line of sight of the existing dwellings.
- The proposed nursing home is fully compliant with clinical, operational, HIQA and planning standards and the insinuation by some appellants that this is not the case is wholly inappropriate.
- The convent is no longer viable, the Carmelite Nuns do not occupy the convent.
- The development proposes to demolish the gate lodge and structures abutting the main building (i.e. sheds), these do not form part of the protected structure.
- The new entrance to the site will provide an eye catching view of the protected structure framed with mature trees and this was considered a welcome addition by both the Conservation Officer and the planner noting that the protected structure is currently buffered from Grace Park Road.

- The northern boundary of the lands at Griffith Avenue comprise c. 25 trees within the boundary of the site, of these only 7 are to be removed.
- The proposed nursing home and apartment block are 4 trees deep from Griffith Avenue and as such will not be visible from the road.
- The subject development of 99 residential units and a 69 bed nursing home will generate approximately 80 peak hour trips which is significantly less than the threshold to carry out a TIA and will have an insignificant impact on the daily traffic levels in the area.
- The proposed development will alleviate traffic congestion along Grace Park Road noting that the provision of a right hand turning lane will allow vehicles to continue straight or turn left onto Griffith Avenue without having to wait for vehicles to turn right.
- A LAP is not statutorily required.
- The proposed access to the development is in accordance with the requirements of DCC and is proposed from Grace Park Road in order to ensure that there are no adverse impacts on the walled garden and protected structure.
- There are adequate sightlines in excess of 45 m in accordance with DMURS for a design speed of 50 kph for Grace Park Road which currently has speed reducing ramps 50 m either side of the proposed entrance.
- The gate access to the car park basement will be located towards the lower end of the ramps to avoid cars having to wait on the ramp when exiting.
- It is proposed to provide warning surface to visually impaired people at the pedestrian crossings at the main entrance to the development and at the entrance to basement car park at block A.
- All of the proposed cyclist and pedestrian entrances are directly overlooked and accordingly active passive surveillance will be provided.
- A playground is proposed within the scheme.
- The applicant wishes to note that the NPWS have fully assessed the lands in terms of biodiversity and wildlife.
- Bat and badger surveys were carried out.
- Applications for both bat and badger Derogation Licences were applied for and subsequently granted and were enclosed with the application documentation.
- There are adequate sightlines at the proposed basement car park entrance/exit in excess of 45 m in accordance with DMURS for a design speed of 50 kph for Grace Park Road which currently has speed ramps 50 m either side of the proposed entrance.
- Access to the underground car park at block A breaks up the 190 m continuous wall along Grace Park Road, it creates an additional junction which will have a traffic-calming effect as drivers slow and show greater levels of caution as per s.3.4.1 of DMURS.

- The proposed apartment block is 3 storeys in height in keeping with the existing protected structure.
- Due consideration has been given to the history of the site and its protection.
- Separation distances in excess of 22 m have been provided throughout the development for opposing first floor windows.
- The applicant welcomes a condition requiring the removal of first floor windows in House Type C to the rear of No. 11 Beresford Avenue.
- The proposed pedestrian access will increase permeability to Grace Park Road and Griffith Avenue which is of benefit to the residents of Beresford.
- The proposed pedestrian and cycle entrance to the south (via the original entrance to the site) will be actively surveyed by two existing dwellings and two proposed dwellings.
- The building line along the north of the site has been set back to protect the existing tree lined avenue, a building line closer to the road would result in the extensive removal of these trees.
- The submission includes, *inter alia*, a document titled 'Response to Engineering Issues Raised by Third Party Appeals' by Waterman Moylan Engineering Consultants.

### 6.3 Third Parties' response

#### All Hallows Area Association, c/o O'Neill Own Planning Consultants.

The contents of the response to other third party appeals from the above can be summarised as follows:

- They support the appeals made and the concerns of the different appellants.
- Most of the concerns of the residents could be mitigated by strict compliance with the zoning objective for the lands which would reduce the number of residential units and increase the amount of public open space on the site.

#### Mr M. Stanley, Grace Park Terrace, Drumcondra, D. 9

The contents of the response to other third party appeals from the above can be summarised as follows:

- Submission prepared by Trafficwise Ltd., Roads Design and Traffic & Transportation Planning consultants.
- The receiving road network is congested. The applicant failed to prepare any meaningful submission on the traffic impact or transport characteristics of the development in the first instance.
- It remains to be seen if the Traffic Cell Management Study will be successful in addressing the current significant traffic issues on Grace Park Road and surrounding road network.
- No assessment of traffic or roads geometry accompanies the application.
- No assessment or audit of road safety has been undertaken despite the proposal to introduce two new accesses on Grace Park Road with the primary access located on a hazardous bend.



- A most fundamental matter raised by appellants is the inability of the proposed internal road system to accommodate the turning of a refuse vehicle.
- No evidence that the matter of fire tender access to the central areas of the development site has been satisfactorily addressed in the determination of the application.
- There are a number of serious traffic safety issues arising directly from the proposed basement car park, these relate to: turning radii; dwell area; tactile paving; general access arrangement, and sightlines.
- The proposed pedestrian/cycle access is not a well-designed space.
- It is proposed to provide sightlines at the Grace Park Road entrance in the order of 55 to 60 m for drivers exiting the site and this provision is based upon the speed limit of 50 kph, the design speed is the appropriate design parameter not the speed limit.
- The tenet of DMURS is not to provide wide lanes in urban areas as wider lanes encourage increased vehicle speeds which are undesirable in a built-up area in any case, but all the more undesirable considering the nearby school, and most especially given that that school is for the visually impaired.
- It is not clear from the submitted information whether suitable provision has been made to physically accommodate the right turn lane to Griffith Avenue.
- The planning application is devoid of any information relating to the receiving road character, dimensions, capacity or traffic conditions.

Mrs E. & Dr J. O'Rourke, Mrs M. & Mr G. Cregan, Grace Park Road, Drumcondra, D.9

The response from the above to the applicant's response to the grounds of appeal can be summarised as follows:

- Concerns about zoning not addressed by the applicant.
- No buffer for residents on Grace Park Road/Grace Park Terrace from the apartment block, the row of three storey terraced houses and the nursing home if the current trees and vegetation are removed and large sections of the wall removed and significantly lowered.
- Concerns raised about possible asbestos removal.

Mr D. Milner, Beresford Avenue, Drumcondra, D. 9

The response from the above to the first party's response to the grounds of appeal can be summarised as follows:

- There is no bus service at Beresford-Hampton, the existing bus shelter at this location is disused.
- Concerns reiterated about overspill car parking onto Beresford Avenue.
- Lack of consultations.
- Concerns raised in relation to works proposed to the Griffith Avenue/Grace Park Road junction, need for public notification.

Beresford Residents c/o Cunnane Stratton Reynolds, Land Planning & Design

The response from the above to the first party's response to the grounds of appeal and other third party appeal by M. Stanley can be summarised as follows:

- Lack of a traffic and transportation assessment leaves many road safety matters unresolved.
- Response submitted to the applicant's submissions on need for public notice, protected structure, overlooking and overshadowing.
- For the proposal to include the provision of a new walking/cycling route through an existing estate without the p.a. providing an opportunity for public consultation is unjust as well as representing a procedural failure.

Steve & Aisling Dalton, Beresford Avenue, Drumcondra, Dublin 9.

The response from the above to the first party's response to the grounds of appeal and other third party appeal by M. Stanley can be summarised as follows:

- The hedgerow located along the western boundary differs in height and density.
- No consultation regarding the pedestrian access via Beresford.
- Submission made in relation to zoning, traffic congestion, current traffic survey, open space provision and hedgerow along western boundary.
- Supports the M. Stanley submission.

#### **6.4 Observations on grounds of appeal**

Seán Haughey TD, Dáil Éireann

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

- The observer supports the appeals.
- Not clear if the open space provision requirement of the Z15 will be achieved.
- A massive residential development should not be considered on these lands.
- There must be consequential differences between Z15 and Z1 zoning.
- It is questionable whether the applicants have an interest in the strip of land at Griffith Avenue to facilitate the proposed pedestrian and cycle entrance at this location.
- The observer questions who will be responsible for the area of land that accommodated the original entrance to the lands off Grace Park Road.
- Concerns raised about the proposed vehicular entrance at a bend in the public road.
- Impact on residential amenities of adjacent properties by reasons of overlooking, overshadowing and loss of privacy.
- Loss of trees.
- Impact on badgers on the site.
- Traffic congestion already experienced in the area and more developments planned for the area.

- Request limitations on construction times if development is granted permission.
- Clarity needed in relation to old boundary wall along Grace Park Road.
- The proposal represents an over-development of the site.

## 6.5 Further first party response

The further response from the applicant to the submission from appellant M. Stanley which included a report prepared by Trafficwise Ltd. can be summarised as follows:

- Submission includes report from Waterman Moylan Engineering Consultants responding to the Trafficwise Ltd. submission.

## 7.0 POLICY CONTEXT

The operative plan for the area is the Dublin City Development Plan 2011-2017. The site is located in an area where the land-use zoning objective is Z15. Lands adjoining to the west are zoned Z1 (existing residential) as are the lands to the east on the opposite side of Grace Park Road from the site. There is a row of dwellings backing onto the site to the south which are also located on lands zoned Z1. All Hallows College adjoins the site to the south-west, those lands are zoned Z15. Other relevant policies, objectives and sections of the CDP include the following:

- Section 7.2.5.2: Protected Structures and the Built Heritage (and related policies FC30 and FC31)
- Section 15.3: Policy Approach
- Section 15.10.14: Land-Use Zoning Objective Z15
- Section 17.6: Building Height in a Sustainable City (including figure 21)
- Section 17.9.1: Residential Quality Standards
- Section 17.10.2: Development within the Curtilage of a Protected Structure
- Section 17.10.3: Demolition of Protected Structures
- Section 17.10.4: Uses and Protected Structures
- Section 17.20: Nursing Homes
- Policy QH6 relating to development of underutilised infill sites
- Policy NC2 relating to good urban neighbourhood

Copies of the above extracts are in the attached appendix for ease of reference for the Board.

## 8.0 ASSESSMENT

I have examined all the plans, particulars and documentation on file. I have carried out a site inspection. I have had regard to relevant provisions of the statutory development plan for the area. I have also had regard to the contents of other relevant documents including '*Architectural Heritage Protection – Guidelines for Planning Authorities*', '*Sustainable Residential*

*Development in Urban Areas – Guidelines for Planning Authorities’ and ‘Design Manual for Urban Roads and Streets’.* In my opinion the main issues arising are:

- Traffic Impacts
- Z15 Zoning
- Building Heights
- Overlooking and overshadowing
- Architectural Heritage Protection
- Interface with Grace Park Road
- Building line along the northern boundary
- Connection to Beresford
- Elevations to the apartment blocks and nursing home
- Appropriate Assessment

#### Traffic Impacts:

There is one vehicular entrance serving the subject lands currently. This is contemporaneous with the original house, a protected structure, on the site. It is a narrow lane and due to its location between two dwellings in a row of dwellings, it cannot be easily upgraded to accommodate the proposed development. The applicant is thus proposing two vehicular entrances off the Grace Park Road to the east of the subject lands.

One entrance is to the basement car park that serves the units in proposed apartment Block A and the adjacent protected structure. The second entrance further south will serve the rest of the development.

Traffic impacts arising from the proposed development have been raised in the appeal submissions and in the submissions to the p.a. in the first instance. These concerns include reference to traffic congestion that is already experienced along Grace Park Road and in the wider area. The appellants hold that this development, and other developments granted permission in the wider area, will exacerbate the problem. Some have also raised concerns about sight distances available at the proposed entrances when exiting the site. Some have referred to previous serious traffic accidents along the road. Concerns have also been raised about the entrance locations at a bend in the road. Reference is made to schools in the area, including a school for the visually impaired along Grace Park Road, students accessing these schools will be passing the proposed entrances. The p.a. also sought changes to the development to accommodate a right-turning lane onto Griffith Avenue off Grace Park Road, Grace Park Road joins Griffith Avenue adjacent the north-east corner of the application site. Some appellants have also raised concerns about the changes to this junction. An appellant residing in Beresford to the west of the site has raised concerns that this neighbouring residential development will be used for overspill car parking from the

proposed nursing home on the site. One of the appellants submitted a report as prepared by Trafficwise Ltd. (traffic and transportation consultants) that made reference to, *inter alia*, the following: the need for the applicant to submit a Transport Assessment in accordance with CDP requirements; the proposed internal road system with reference to turning areas; the need for two entrances off the public road questioned; the layout and design of the basement car park access; the proposed main access off Grace Park Road, and the proposed right turn to Griffith Avenue.

In the initial submission to the p.a. it was indicated that the proposed roads layout was agreed in pre-planning meetings with the Roads & Transportation Department of the p.a. (ref: s.5.2 of 'Engineering Assessment' - Waterman Moylan Ltd. received by the p.a. on the 26/11/15).

The Roads & Traffic Planning Division Report on file from the p.a. (dated 20/01/16) indicated no objection in principle from a traffic and transportation perspective but went on to seek FI on four issues. The first issue related to improving pedestrian and cyclist permeability across the development. The second related to the relocation of part of the boundary wall adjacent the Griffith Avenue/Grace Park Road junction to facilitate a right-turning lane onto Griffith Avenue. The third issue related to a drop-off/pick up area serving the proposed nursing home located in the north-east section of the site. The fourth issue related to the detailed design of the access ramp to the basement car park off Grace Park Road.

The applicant responded on the 22/02/16 to the FI request and a number of amendments were proposed in response to the issues raised by the Roads & Traffic Planning Division. Greater permeability for pedestrians and cyclists is proposed across the site, the wall adjacent the Griffith Avenue/Grace Park Road junction is to be located further west, proposals in relation to a drop-off area serving the nursing home were submitted as were proposals for emergency access to the nursing home, and proposals in relation to the entrance off Grace Park Road to the basement car park were clarified. In a report dated 04/03/16 the Roads & Traffic Planning Division indicated satisfaction with the FI response and recommended permission be granted subject to conditions.

In relation to sightlines at the two proposed entrances off Grace Park Road, I would acknowledge that the applicant is proposing sightlines in excess of DMURS recommendations (ref: s.4.4.5, Table 4.2 and Figure 4.63 of DMURS). The speed limit is 50 kph, it should also be noted that there are several speed restricting ramps located along Grace Park Road, including to the north and south of the two proposed entrances. The Roads & Traffic Planning Division report on file dated 20/01/16 has indicated satisfaction with these proposed entrances. The introduction of new entrances along this length of road frontage should also have a traffic calming effect. As the applicant is exceeding the DMURS sightlines standards, it would be

unreasonable in the circumstances to refuse permission. Arguably there is some degree of planning gain here, the wall at this bend along the site frontage is to be removed and set back, thus improving visibility. Likewise the setback of the wall at the northern end of the site frontage onto Grace Park Road must be considered a planning gain. This will facilitate a right-turning lane onto Griffith Avenue at some stage in the future improving traffic flows at this busy junction.

In relation to concerns raised about overspill parking onto the neighbouring residential area of Beresford from the nursing home, the applicant is proposing both staff and visitor parking in the basement of the nursing home, a drop-off and pick-up area is also being accommodated in the basement car park. A total of 26 car parking spaces for visitors and 8 staff car parking spaces are to be provided. In addition, 12 cycle parking racks are also proposed in the basement. The nursing home is to be located in the north-east corner of the site and a pedestrian and cyclist access off Griffith Avenue is adjacent this nursing home. Having regard to Map J and Table 17.1 of the CDP, and section 17.40 which indicates that the standards in Table 17.1 should be considered as maximum parking provision, I consider that the car and bicycle park provision complies with the CDP. There is nothing on file to indicate that the development would generate car parking in the adjacent development. I therefore would not recommend refusal in relation to this matter.

In relation to traffic congestion, this site is within walking and cycle distance of the city centre. The footpath network in the area is good. The NTA GDA Cycle Network Plan indicates a proposed cycle route along Grace Park Road. Permeability proposed across the site – with pedestrian/cyclist access points proposed along Griffith Avenue to the north, Beresford to the west and Grace Park Road to the east and south – will further encourage the use of sustainable modes of transportation. The area is served by Dublin Bus and Drumcondra Rail Station is also within walking distance. It would appear that the traffic congestion in the area is more related to through-traffic rather than destination traffic. I therefore would not recommend refusal in relation to this matter.

In relation to concerns raised about the internal road network serving the development and in particular concerns raised about turning areas, I note the applicant's submission of the 15/06/16 in response to the grounds of appeal in which a swept path analysis for a refuse vehicle and a large car were submitted. That submission (as prepared by Waterman Moylan Engineering Consultants) also outlined proposals for tactile paving at the proposed entrances which will assist visually impaired persons. In the event of a grant of planning permission I would recommend a condition requiring the proposed road layout and entrances to comply with the requirements of the planning authority for such works.

One appellant holds, with reference to Appendix 6 of the CDP, that a Transport Assessment should have been carried out and it was remiss of the p.a. not to seek such an Assessment. The applicant has responded to this issue in the submission of the 15/06/16. The applicant did meet with the Roads & Traffic Planning Division prior to the submission of the application, the Division did not seek a Transport Assessment. There are two reports on file from that Division, both indicating satisfaction with the proposal in principle and the second recommends that permission should be granted subject to conditions. Issues were raised by the Roads & Traffic Planning Division during the application process and these were responded to by the applicant to the satisfaction of the Division. Appendix 6 of the CDP refers to 'guidelines' in relation to the criteria that triggers the need for the submission of a Transport Assessment, in the circumstances I am not convinced that a Transport Assessment is required, there is sufficient information on file for the Board to carry out a full assessment of traffic and transportation issues arising, in my opinion.

Having regard to the foregoing I am of the opinion that a refusal of permission on the grounds of traffic and transportation matters is not warranted. The proposed development does not pose an unacceptable risk to traffic, pedestrian or cyclist safety, in my opinion. The development makes provisions for the use of sustainable modes of transportation and the site location also means that sustainable modes of transportation are viable alternative options to the private car.

### Z15 Zoning

Many of the appellants and the observer to the appeal have raised concerns about compliance with the Z15 zoning. The concerns relate to a residential development being proposed on lands zoned Z15 and not Z1. Some hold that the development will not secure the aims of the zoning objective for the area. Some hold that it represents an over-development of the Z15 zoned site and that there is insufficient open space provision. It is held by some that the institutional use could be maintained on the site.

Section 15.3 relating to policy approach of the CDP states, inter alia, "*There is an emphasis on the importance of Z15 lands as a resource for the city in providing educational, recreational, community and health facilities, in the maintenance and creation of sustainable, vibrant neighbourhoods and a sustainable city.*" It appears that the last use on these lands, and one that existed from the mid C19th, was a convent/monastic use, there was no primary or secondary educational use or health institutional use as such. Therefore the proposed development is not displacing such educational or health use, nor is a recreational or community use being displaced by the development proposal. The nuns that used to reside in the convent have relocated to another part of the city, it appears, due to declining numbers in the congregation. The proposed development includes for a nursing home

where such a use did not exist previously. In addition, the site is to be opened up allowing for wider access and will include pedestrian and cycle access from the surrounding areas. The landscaped open areas on site, which will include playgrounds, will provide for recreational use. The use of the existing church on the site is to be kept as a place of religious worship.

All of the proposed uses in the scheme before the Board are either 'permissible uses' of 'open for consideration' as per the Z15 zoning.

The Z15 zoning requires the preparation of a masterplan for such zoned lands in certain circumstances. The application was accompanied by a masterplan in compliance with that requirement. I am of the opinion that the masterplan provides a clear vision for the development of the lands and this has been followed through in the application.

The zoning requirement includes for a public open space provision of 25%. I refer the Board to Downey Architecture drg. No. PL-1004 indicating the open space zones on the site. It is proposed to provide 25% public open space. There is a hierarchy and variety of open spaces being provided across the development from private balconies serving the apartments, to private rear gardens serving the dwellings, to a communal roof garden on the nursing home, to communal spaces adjacent the apartment blocks and nursing home, to the renovation and reuse of the walled garden at the rear of the protected structure, and the maintenance of the burial ground to the east of the site. The main quantum of public open space is centred around the protected structure and this open space, with the protected structure at its heart, acts as a focus for the new build. The public open space also includes two children's play areas to serve the development (ref: Jane McCorkell Landscape & Garden Design drg. No. PP-135-02). The layout of the scheme including the open space was dictated somewhat by the desire to retain trees on site where possible. The application was accompanied by an Arboricultural Assessment Report and associated drawings (ref: J. M. McConville & Associates). The aim of the proposed landscape design is to retain the parkland atmosphere and provide a high quality landscape for the future residents to engage with, as stated in the Landscape Report as prepared by Jane McCorkell, Landscape & Garden Design. I do consider that the landscaping approach seeks to work with, and positively exploit, the existing character of the site derived from the protected structure and its associated landscaping. Overall, I consider that the development does comply with the Z15 requirement concerning the public open space provision and the CDP development standards concerning public and private space provision.

I am also of the opinion that the proposal presents a good mix of uses resulting in a sustainable development. The church is to be retained as a place of worship and part of the historic dwelling is to be retained for occupation by religious. A nursing home is to be provided in the north-east sector of the site. A crèche is to be provided in part of the protected structure.



Houses and apartments are also to be provided in the existing protected structure. The new build residential will include for 1 bedroom, 2 bedroom, 3 bedroom, 4 bedroom and 5 bedroom units. All of this provides for a good sustainable mix of households of various sizes and ages, something often lacking in many conventional residential suburban-type developments. Indeed, the development may provide an opportunity for existing more mature households in the area to stay in the area but to relocate and 'down-size' to a more suitable residential unit, thus freeing up some of the larger older family homes in the area that no longer accommodate families with children.

Some appellants cite the Board's decision to refuse permission for a residential development on Z15 zoned lands at Sybil Hill Road in Raheny, Dublin 5 under PL 29N.244588. Notwithstanding that refusal, I note that since that decision the Board has recently granted permission for a residential development on that same site under PL 29N.246250.

Having regard to the foregoing I cannot find that the proposed development materially contravenes or conflicts with the statutory zoning objective for these lands.

#### Building Heights

Concerns over proposed building heights have been raised by a number of the appellants. They object to the height of the dwellings proposed along the western boundary adjacent the existing Beresford Estate where all the dwellings in that scheme are two-storey. Objections have also been raised in relation to the heights proposed to those houses at the south of the site where they back onto an established row of dwellings that front onto Grace Park Road adjacent the existing entrance to the site. Appellants have also raised concerns about the heights proposed to the apartment blocks and the nursing home, they note that these structures are to be located on elevated ground, ground levels do rise generally from south to north towards Griffith Avenue. They cite the Z15 zoning as per the CDP where it states, *inter alia*, the following: "...development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to standards in section 17.9 in relation to aspect, natural lighting, sunlight, layout and private open space, and in section 15.9 in relation to the avoidance of abrupt transitions of scale between zonings".

I am of the opinion that the site layout has had regard to prevailing heights. The taller structures are apartment Block B and the nursing home, both of these are located in the north-eastern section of the site and are a remove from the two-storey existing dwellings to the west of the site. At four storeys, I do not consider these proposed heights excessive. Such heights are permissible in the CDP as indicated in s.17.6 and figure 21. The retention of many of the trees immediately to the north of these two buildings further facilitates the integration of the structures at this location. The four storey

nursing home adjacent the Griffith Avenue/Grace Park Road junction provides some degree of definition to this corner. The height of the three storey apartment Block A is consistent with the height of the protected structure on the site. Where development is proposed immediately adjacent existing dwellings on neighbouring lands, the heights step down. The rear of the proposed dwellings along the boundaries adjacent neighbouring dwellings are 2.5-3 storey, this is not an inappropriate or abrupt transition in my opinion.

I therefore would not recommend refusal on the grounds of the proposed heights across the scheme.

#### Overlooking and overshadowing

Many appellants and the observer hold that the proposed development will adversely impact on established adjacent residential amenities by reasons of overlooking and overshadowing.

As indicated in the preceding section I do not consider that the proposed heights across the scheme are excessive. These heights, taken in conjunction with both the separation distances involved and the nature of the intervening spaces, provide for appropriate mitigation in relation to overlooking, save for one location that will be addressed below.

The general 22 m separation distances between directly opposing above ground floor windows in existing and proposed dwellings has been met, in some cases the proposed development generously exceeds this 22 m guideline. There are no living room/dining room windows or balconies at first floor level proposed in the dwellings where they back onto existing dwelling sites to the west or to the south. The existing high walls, trees and hedges to be retained further mitigate overlooking.

There is one location, as stated above, that I would have some concerns about. I am concerned that the angle of the dwelling on site no. 26 (as per drg. No. AI-1003-OP1 Proposed Site Layout Plan – Option 1) relative to the existing dwelling in the neighbouring No. 12 Beresford Lawn would easily facilitate the overlooking of the private open space immediately to the rear of that neighbouring dwelling. In the response to the grounds of appeal (ref: received on the 12/05/16 p. 53) the applicant indicates no objection to a condition removing the first floor windows in the side of the house on site no. 26. This was to address potential of overlooking of the rear garden of No. 11 Beresford Lawn. While that addresses the overlooking concern in that direction, it does not address the overlooking of No. 12 from the rear elevation of the dwelling proposed on site no. 26. I would therefore recommend that the dwelling on site no. 26 be omitted by way of condition and this area be dedicated as private open space to serve the dwelling on site no. 25. Plans, sections and elevations of the dwelling on site no. 25 should be agreed with

the p.a., it should not have any windows in its north facing side elevation at first or second floor level (save for those with obscure glazing).

In relation specifically to overshadowing, given: the separation distances involved; the nature of the existing receiving environment; the heights and locations of proposed structures; the nature of the intervening spaces, including high boundary walls and hedgerows; the contents of the Shadow Analysis (by Chris Shackleton Consulting Ltd.), which I consider to be reasonable, submitted by the applicant in response to an FI request, and also having regard to the site location to the east of Beresford, I do not consider that the proposed development would adversely impact on the residential amenity of neighbouring properties by reason of overshadowing or loss of daylight.

### Architectural Heritage Protection

Concerns have been raised by some appellants as to the impact various aspects of the proposed development will have on the architectural heritage of the site.

There is a protected structure on the site. It is listed as '*Ref. 3238 Carmelite Convent of the Incarnation: ancillary buildings including curved return to the main house*' in the RPS. It was original known as Hampton Lodge and dates from the C18th, it was then a medium sized country house. It has since been layered with C19th institutional buildings associated with its convent use, the nuns took over the building in the mid C19th, it has been more recently enlarged with modern extensions and internal alterations. The C19th architectural heritage of the structure is well-intact, no doubt due to its occupation by the nuns, this use has only recently ceased. However, given the long occupation and changes introduced by the nuns, it is difficult to get the sense of the original C18th family home, it now has a strong religious institutional character. The chapel to the front of the convent dates from the 1860s and its design is attributed to Pugin.

The development includes for the part change of use and part conversion of an existing protected structure. It also includes demolition of structures in the attendant grounds and adjoining the protected structure itself.

There is a report on file from the applicant's Conservation Architect titled '*Report on the Architectural/Historical significance of the Hampton Carmelite Convent, Grace Park Road, Drumcondra, Dublin 9 & Observations on the Impact of the current proposal*'. It includes a large number of photographs of the interior. Based on a site inspection I can confirm that they are an accurate representation of the interior. There is also a report on file by the same architect on the specifications, schedule and method statement for the works to be carried out to the historic buildings.

The majority of the demolition works relate to late C19th and C20th elements. For example, the reference to the demolition of the gate lodge dwelling relates to a 1960s bungalow adjacent the original gateway into the lands, there was an original gate lodge at this location but it has long since been demolished. The 1960s bungalow is of no architectural heritage value. Additions to the Hermitage building at its front and western side, which are to be demolished, are both late C20th structures and detract somewhat from the character of the original building.

A significant section of the boundary wall along Grace Park Road is to be removed to facilitate sightlines at the proposed vehicular entrances. Some submissions on file have raised concerns about the potential loss to the architectural heritage as a result. From observations made on the day of the site inspection it is clear that the wall here does not all date from the same era. The section that is to be removed to facilitate the main vehicular entrance is of concrete block construction with a pebble dash applied on the public road side. It is of little architectural heritage in itself. Changes at other locations along this roadside wall will make a positive contribution to its overall character as later additions will be removed (ref: Drg. Nos. AI-1501 to AI-1503 inclusive received by the p.a. on the 22/02/16). While I accept the opening up of the wall along this frontage does change the relationship of the protected structure and its associated grounds with the public domain, in this instance, I am of the opinion that there is planning gain. There will be views into the protected structure from the public realm and it will dominate the character of the scheme. Large sections of the original brick wall along the roadside frontage will be retained while later additions to the top of the wall of little architectural heritage value will be removed.

There is a report on file from the p.a. Conservation Officer (dated 26/01/16). It is a detailed report and indicates that pre-planning discussions were had with the applicant's architect and conservation architect, changes to the proposal were made following those discussions. The CO report assesses the application and is generally supportive. The CO report recommends that permission should be granted subject to conditions.

Overall, I consider that the proposal does seek to protect the character and setting of the protected structure while providing for a new use (in addition to maintaining the church and religious use in part of the protected structure). I concur with the CO where she states, *inter alia*, that "*The inability of the Order to continue with the upkeep of the buildings requires a new approach and keeping the buildings in use is generally accepted as the best option... The significant buildings will be retained and internal demolitions and opening up are proposed in order to provide for modern standards of living. It is also proposed to demolish modern added on structures of no architectural or historical interest and a small addition dating from the late nineteenth century. These demolitions are justified... The proposals have retained the protected structure as the focus of the layout and have retained designed features...*"

Having regard to the foregoing, the refusal of permission on the grounds of architectural heritage protection is unjustifiable in this instance in my opinion.

#### Interface with Grace Park Road

A number of appellants have criticised the proposed layout in the context of how it addresses Grace Park Road to the east. Some hold that the new development should form a frontage at this location where it interfaces with the public road.

There is an argument to be made for the creation of a frontage onto Grace Park Road. Such a frontage would be based on good urban design and urban planning principles. While the high boundary wall at this location has some architectural heritage and historical value relating to the protected structure on the site, nevertheless, this long somewhat impenetrable wall along this public route currently contributes little to the urban environment. It prohibits active surveillance of the public road at this location, making it uninviting as a pedestrian route. The site behind is currently introverted and disconnected to its immediate surroundings.

However, I would acknowledge that the site has a number of other constraints as indicated in the submitted masterplan. The designers have sought to address and achieve an acceptable balance between these sometimes competing constraints.

At the heart of the site is the protected structure. The designers of the scheme have prioritised the protection of the character and setting of that structure, and this, in my opinion, is appropriate. This protected structure and the associated extensions, additions and gardens, are for the most part orientated north-south on the site and therefore do not address Grace Park Road. Creating a frontage along Grace Park Road while protecting the character and setting of the protected structure would be difficult. In addition, the need to retain groups of mature trees and hedgerows at various locations throughout the site, including along the northern boundary, have also dictated the layout that is now before the Board. The location of many of these trees are of course related to the overall layout of the lands when the original protected structure was being planned here.

The 25% open space provision as per the Z15 zoning and the need to provide adequate separation distances between the new build and adjacent residential developments have also been design constraints that needed to be, and were, addressed in the overall layout.

The resultant layout is, in my opinion, not without merit, particularly considering the constraints. The architects and landscaping architects are positively exploiting the strong sense of place here. The protected structure

and the associated landscaping gives character and a sense of place to the new development. The wall along Grace Park Road is to be opened at two locations. New views into the protected structure, the landscaping and the new development will be created. As it currently is, there is little hint as to what lays behind the wall along Grace Park Road. Planning requires striking a balance between competing demands, a reasonable balance has been struck in this instance, in my opinion. The development addresses Grace Park Road, it provides some degree of surveillance to the public domain, the lands are opened up to the surrounding neighbourhood, the character and setting of the protected structure is safeguarded, much of the brick and stone wall along the road will be retained as will many of the mature trees on the site.

#### Building line along the northern boundary

Some appellants have criticised the layout in the context of how it addresses Griffith Avenue to the north. They hold that the building line as established by the dwellings fronting Griffith Avenue to the east of the Griffith Avenue/Grace Park Road junction should be adhered to at this location.

The tree-lined boulevard that is Griffith Avenue has a strong identity and strong sense of place. The trees are clearly a critical ingredient to this strong identity. As with challenges posed in addressing Grace Park Road, the architects also had to make a choice between competing demands at the northern end of the site adjacent Griffith Avenue.

If the building line as established by the older dwellings to the east of the junction was to be adhered to, then that would require removing many of the mature deciduous trees along the boundary at the northern end of the site. The designers choose to maintain the trees and set the building line back from Griffith Avenue. This is a legitimate design response. A similar design response was adopted in the Beresford residential scheme immediately to the west. The dwellings there are set further back from the road frontage to retain the trees at its frontage with Griffith Avenue. The proposed nursing home and apartment Block B will still address the frontage to Griffith Avenue and a pedestrian/cycle lane entrance is also proposed along this boundary. The difference in setback between the new build and the dwellings to the east is not critical in this instance, in my opinion, as the retained trees will dominate the view at this location and the difference in the setback will be imperceptible. I would not, therefore, recommend that permission be refused in relation to this issue.

#### Connection to Beresford

Following an FI request from the p.a. the applicant submitted an amended layout for the development. One of the changes entailed a proposed pedestrian and cyclist access through the existing boundary wall at the end of

a cul-de-sac in the neighbouring Beresford Avenue. This has featured in a number of the appeal submissions.

The concerns relate to this access facilitating vandalism, anti-social behaviour and the use of Beresford as an overflow car park for the proposed nursing home. They also hold that the access will not facilitate greater permeability as an access point is already proposed from the site to Griffith Avenue.

I have addressed the matter concerning potential use of Beresford for overflow car parking under 'Traffic Impacts' above. In relation to vandalism and anti-social behaviour potential, I note that the proposed access point and approaches to it from both sides are subject to surveillance from a number of existing and proposed dwellings that directly overlook this route. Research indicates that such overlooking does mitigate anti-social behaviour. I consider it appropriate that the p.a. did seek such an access that facilitates permeability. Such permeability is in the interests of the proper planning and sustainable development of the area and is supported in principle by national and local planning guidelines and policies. There is strong permeability proposed across the site facilitating sustainable modes of transport with pedestrian and cyclist access via Beresford to the west, Griffith Avenue to the north and Grace Park Road to the east and south. These routes will not just benefit the future residents of the proposed scheme but will also benefit the existing community in the wider area. I therefore would not recommend refusal in relation to this proposed access point.

An issue that was raised by some of the appellants relates to the need, or otherwise, for the public notification of this proposed access lane via Beresford. Many cite article 19 of the Planning & Development Regulations and hold that the p.a. should have sought the public notification of this proposal as it was not originally proposed and was thus not referred to in the public notices and no notice was erected at that location. The applicant has responded citing article 35 of the Regulations and holds that the p.a. as the competent authority did not consider that the access constituted significant additional data and thus revised notices were not required.

I note that 4 of the 7 appeals came from Beresford, including an appeal from Beresford Residents, and all 4 raised this issue and therefore were clearly aware of the proposal. They have made their concerns clear regarding this proposed access point as indicated in the preceding paragraphs. At this stage I am not convinced of the need to now seek public notification in relation to this specific issue. The access is only to accommodate pedestrians and cyclists, it is not intended to accommodate car access, in that regard, the p.a. may not have erred in determining that the data did not constitute significant additional information. I am of the opinion that, on balance, new notices are unwarranted and little, if any, public good is served in now seeking the notices. However, should the Board consider it necessary it is still open to the

Board to seek public notification of the proposed pedestrian/cyclist entrance from Beresford prior to making a decision.

#### Elevations to the apartment blocks and nursing home

I have some reservations in relation to the design of the elevations to proposed apartment Blocks A and B, and in relation to the nursing home. The elevations may be considered rather austere, although this may be considered somewhat of a subjective matter (the elevations in themselves were not specifically subject of the grounds of appeal). The materials to be used here should be agreed with the p.a. prior to the commencement of development. On the day of the site inspection I did note a test panel had been erected on site adjacent the church in which a grey/brown brick with different coloured mortars and different joint details were being tested against that of the protected structure. The protected structure is being used as the determining factor in the selection of the finishes to the buildings which is reasonable.

#### Appropriate Assessment

There is a screening report for Appropriate Assessment on file as prepared by the applicant's agent. It concludes with a finding of no significant effects in relation to the integrity of the Natura 2000 network.

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

#### Other issues:

There are two badger sets on the site, one in the south-east section and one in the north-west section of the site. The older structures are also considered to provide potential for bat roosting. Concerns were raised by some appellants as to the potential impact on both badgers and bats on the site. A 'Bat Derogation Licence' and a 'Badger Derogation Licence' as issued by the NPWS are contained in the appendices to the applicant's 'Planning Support Statement' submitted with the application. Having regard to, *inter alia*, those Derogation Licences, I would not recommend refusal in relation to this matter.

There is an 'Archaeological Assessment' report on file (as prepared by Irish Archaeological Consultancy Ltd.) It notes, *inter alia*, that there are no recorded monuments located within the immediate vicinity of the site. The report is noted by the City Archaeologist's Report dated 18/12/15 who recommends a condition should permission be granted. In the event of permission I would recommend a condition in the interests of archaeological heritage protection.



A 'Flood Risk Assessment' on file as prepared by Waterman Moylan Engineering Consultants for the applicant concludes that, post mitigation measures, the flood risk from tidal, fluvial, pluvial and ground water is either 'extremely low' or 'low'. A report on file from the p.a. Drainage Division indicates no objection to the development subject to conditions.

The existing original vehicular entrance to the lands is to be closed to vehicular traffic but, following the FI request, is now to accommodate pedestrian and cyclist access. Some appellants have raised concerns about the potential for anti-social behaviour along this lane. The design has had regard to providing surveillance to this lane. Both existing and proposed dwellings at the southern and northern end of this pedestrian/cyclist access lane will overlook the lane which will go towards improved security and militate against anti-social behaviour. Should the Board be disposed to a grant of permission I would recommend that the condition layout 'option 1' as received by the p.a. on the 22/02/16, the p.a. also conditioned this option 1 in its decision.

Having regard to the clarifications submitted in the applicant's responses to the grounds of appeal I would recommend that both of those submissions form part of any conditioned grant of permission. I note that condition no. 10 of the p.a. requires the applicant to carry out works at the Griffith Avenue/Grace Park Road junction (in addition to setting back the wall adjacent this junction). The applicant did not appeal that (or any) condition and relied upon that condition in its responses to the grounds of appeal.

The p.a. applied a s.49 Metro North levy by way of condition. There is a report on file from TII (dated 23/12/15) seeking the application of such a condition. It is unclear at time of writing if the p.a. is still applying such a condition.

## **9.0 CONCLUSIONS AND RECOMMENDATION**

Having regard to the foregoing 'Assessment', I would recommend that the Board grant permission for the proposed development subject to the draft conditions hereunder.

### **REASONS AND CONSIDERATIONS**

Having regard to the Z15 land zoning for the site in the Dublin City Development Plan 2011-2017, the contents of the masterplan submitted with the application, the pattern of development in the vicinity, the proposals in relation to the use of the Carmelite Convent (a protected structure) and associated buildings, structures and walled garden, and also having regard to the quantum and quality of the public open space provision and the retention of mature trees and hedgerows at various locations across the site, it is considered that, subject to compliance with the conditions below, the

proposed development would not seriously injure the amenities of the area or property in the vicinity, would not adversely impact on the character or setting of the protected structure 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 on the 22<sup>nd</sup> day of February 2016 and by the particulars received by An Bord Pleanála on the 12<sup>th</sup> day of May, 2016 and 15<sup>th</sup> day of June 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 site layout shall be as indicated on drg. titled 'Proposed Site Layout Plan Option 1' (drg. no. AI-1003-OP1) received by the planning authority on the 22<sup>nd</sup> day of February 2016 except as may be otherwise required in order to comply with the following conditions.

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

3. The dwelling on site no. 26 as indicated on drg. titled 'Proposed Site Layout Plan Option 1' (drg. no. AI-1003-OP1) received by the planning authority on the 22<sup>nd</sup> day of February 2016 shall be omitted and this area shall be incorporated into the private open space to serve the dwelling on site no. 25. The dwelling on site no. 25 shall not contain any windows to habitable rooms at first or second floor level in its north-west facing (side) elevation. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority an amended site layout plan at a scale of not less than 1:500 and plans, sections and elevations of the amended dwelling design on site no. 25 at a scale of not less than 1:100 indicating compliance with this condition.

**Reason:** To prevent overlooking of the private open spaces at No.s 11 and 12 Beresford Lawn located to the west and north-west of site no. 26

4. The internal road network, the layout and detailed design of the two vehicular entrances off Grace Park Road and the pedestrian/cyclist accesses serving the proposed development (including boundary setbacks, turning bays, junctions, parking areas, footpaths, cycle lanes, kerbs, basement car park ramp design, signage and materials to be used) shall comply with the detailed standards of the planning authority for these works.

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

5. Prior to the commencement of development the applicant shall submit to, and agree in writing with, the planning authority detailed design proposals for the layout of, and works to, the Griffith Avenue/Grace Park Road junction, including the setback of the application site boundary wall adjacent this junction, the layout of the right turning lane on the approach to this junction, road markings, traffic signals and signage.

**Reason:** In the interests of traffic, pedestrian and cyclist safety.

6. Prior to the commencement of the development, the developer shall submit to, and agree in writing with, the planning authority details of all the materials, textures and colours for the external facades including fenestration. Samples shall be displayed on site to facilitate the planning authority.

**Reason:** In the interests of visual amenity, clarity and orderly development.

7. All works to the Carmelite Convent of the Incarnation, a protected structure, and all works to the existing associated structures, including works to the walls of the walled garden, the piers to be relocated on site and works to the Grace Park Road boundary wall, shall comply with the requirements of the planning authority for such works and shall be carried out under the professional supervision on-site of an accredited Grade 1 Conservation Architect or expert with specialised conservation expertise, in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011.

**Reason:** In the interests of architectural heritage protection.

8. 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.

9. 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 residential amenities of property in the vicinity.

10. Proposals for a development/estate name, house and unit 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 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.

11. 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.

12. The landscape scheme accompanying the planning application shall be implemented in full in the first planting season following completion of the development and prior to occupation, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. The landscape scheme shall have regard to the planning authority's Guidelines for Open Space Development and Taking in Charge. The developer's Landscape Architect shall certify by letter their opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development.

**Reason:** In the interest of amenity, ecology and sustainable development.

- 13.
- (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

14. 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 noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of clarity, orderly development and amenity.

15. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

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

16. Public lighting shall be provided in accordance with a scheme, to include lighting in the communal open space and along pedestrian routes, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

17. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

18. 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 of roads, footpaths, watermains, drains, communal 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 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.

19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

20. The developer shall pay to the planning authority a financial contribution in respect of Metro North Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission

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Tom Rabbette  
Senior Planning Inspector  
25<sup>th</sup> July 2016