



An
Bord
Pleanála

Inspector's Report PL06D.247612

Development	Construction of a four storey over basement level nursing home with all associated site works.
Location	149 Braemor Road, Churchtown, Dublin 14.
Planning Authority	Dun Laoghaire Rathdown County Council.
Planning Authority Reg. Ref.	D16A/0082
Applicant(s)	LDB Developments
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-v-Grant
Appellant(s).	Badgers Glen Protection Group & Others
Observer(s)	(1) Dodder Anglers Association Dublin (2) Eilleen Collins (3) Shane Ross TD

(4) An Taisce

Date of Site Inspection

17th February 2017

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.2553 hectares, is located on Braemor Road, Churchtown, between the junctions with Braemor Park to the north and Landscape Road to the south. Landscape Road bounds the site to the east. The site is triangular in shape and is currently occupied by an existing car washing business. The site also includes part of the open space area located to the west of the car wash. There is a footpath and an off-road cycle-path along the Braemor Road frontage, while there is a footpath and grass verge along the frontage to Landscape Road. A number of mature trees bound the site, mainly on its southern side. To the south and west of the site, is a linear park, referred to in appeal correspondence as Badger Glen, which runs along the Little Dargle River, a tributary of the Dodder. Levels from the southern site boundary fall relatively steeply toward the stream on the southern side of the park. This park is accessed from Braemor Road and Landscape Road, immediately adjacent to the appeal site. Development on Braemor road, to the northeast of the site comprises low-density suburban housing. To the north of the site, set back from the road, is a four-storey apartment block, Orwell Court. Development along Landscape Road is mixed, with detached houses and duplex apartments, along with a parade of shops approx. 200m south of the site.

2.0 Proposed Development

2.1. Permission is sought for the removal of the existing car wash, sheds, workshop and existing associated structures; the closure of the 2 no. existing vehicular entrances from Braemor Road; the construction of a four storey over basement level nursing home consisting of 101 no. bedrooms, with associated ancillary/common facilities, office/administration areas; elevational signage and green roof; the provision of a new vehicular and pedestrian access onto Landscape Road, basement level car parking (18 no. car parking spaces), ancillary bin storage, 27 no. bicycle spaces (19 no. at basement level and 8 no. at ground level), associated plant areas at roof level, all associated site works and boundary treatments. The subject site is bounded by Braemor Road to the north, Landscape Road to the east and open space known as 'Badgers Glen' to the south and west.

- 2.2. A revised proposal was submitted in response to further information and approved. The revision includes recessing the third floor level with a reduction in the no. of beds from 101 to 90 and an increase in off-street car parking from 18 to 20.

3.0 Planning Authority Decision

3.1 Decision

Permission granted subject to 27 conditions. Conditions are standard in nature.

3.2 Local Authority and External reports

- 3.2.1 EHO (09/03/16): No objection subject to conditions.
- 3.2.2 Parks and Landscape (31/03/16): Conditions in the event of a grant of permission.
- 3.2.3 Transportation Planning (01/04/16): Further information required including revisions to basement level car parking and vehicular entrance.
- 3.2.4 Drainage Planning (01/04/16): Further information required including details regarding surface water, attenuation and the proposed green roof.
- 3.2.5 Planning Report (05/04/16): Further information required including proposals to deal with concerns regarding scale, height, mass and bulk of the proposed development as well as the details required by the Transportation and Drainage Planning Sections.
- 3.2.6 Drainage Planning (11/10/16) No objection subject to conditions.
- 3.2.7 Irish Water (12/10/16): No objection.
- 3.2.8 Transportation Planning (19/10/16): No objection subject to conditions.
- 3.2.9 Planning Report (25/10/16): The revisions submitted in regards to further information were considered acceptable with the design and scale of the proposal considered satisfactory. The proposal was considered to be acceptable in regards to Development Plan policy, traffic safety and in regards to amenities of adjoining uses. A grant of permission was recommended subject to the conditions outlined above.

4 Planning History

4.1 D14A/0811: Permission refused for the removal of the existing car wash, sheds, workshop and existing associated structures; the closure of the 2 no. existing vehicular entrances from Braemor Road; the construction of a four storey over basement level building consisting of 104 no. bedrooms residential institution (nursing home) with associated ancillary/common facilities and office/administration area; the provision of a new vehicular and pedestrian access onto Landscape Road, basement level car parking (24 no. car parking spaces); ancillary bin storage, 28 no. bicycle spaces (18 no. at basement level and 10 no. at ground level), associated plant areas at roof level, all associated site development, engineering, landscaping works and a new stone wall and railing boundary. Refused based on three reasons...

1. A significant portion of the site is located on lands with the zoning objective 'F', 'to preserve and provide for open space with ancillary active recreational amenities' under the Dun Laoghaire-Rathdown County Development Plan 2010-2016. The proposed use is neither 'permitted in principle' or 'open for consideration' under this land use zoning objective and it therefore materially contravenes this development objective of the Dun Laoghaire-Rathdown County Development Plan 2010-2016 and therefore would be contrary to the proper planning and sustainable development of the area.

2. The proposed development is seriously deficient in open space provision and in its current form provides for a poor level of residential amenity for future occupants. The proposed development would set an undesirable precedent for future development and is therefore contrary to the proper planning and sustainable development of the area.

3. The proposed development is premature by reason of deficiencies in the existing foul sewage system upon which it relies and the time within which the constraints involved may reasonably be expected to cease. To permit the proposed development

would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

- 4.2 PL06D.223471: Permission granted to demolish all buildings and structures on site associated with existing petrol station, construct 27 no. residential units and all associated works.
- 4.3 D04A/0510: Permission granted for alterations to the existing filling station forecourt incorporating decommissioning of underground fuel tanks and construction of replacement fuel tanks.
- 4.4 95A/0136: Permission refused to replace and relocate company sign.
- 4.5 92A/1557: Permission granted for alterations to existing development including a new sales building incorporating a convenience shop to replace existing and relocation of existing car washes.
- 4.6 89A/1381: Permission granted or retention of existing signs.

5.0 Policy Context

5.1 Development Plan

- 5.1.1 The relevant Development Plan is the Dun Laoghaire Rathdown County Development Plan 2016-2022. The site is zoned Objective A with a stated objective 'to protect and/or improve residential amenity'. A portion of the site (western portion) is zoned Objective F with a stated objective 'to preserve and provide for open space with ancillary active recreational amenities'.
- 5.1.2 Section 8.2.3.4 relates to Nursing Home accommodation.

5.1.3 Section 8.2.8.2 relates to Public/Communal Open Space.

6.0 The Appeal

6.1 Grounds of appeal

6.1.1 A third party appeal has been lodged by Kieran O'Malley & Co. Ltd on behalf of Badgers Glen Protection Group & Others. The grounds of appeal are as follows...

- The appellants note that the current proposal does not deal with the refusal reasons relating to the previous proposal refused on site under D14A.0811.
- The appellants raise question regarding the ownership of public open space included within the site boundary noting that the applicant should be required to demonstrate legal control over the portion of land in question.
- The proposal would materially contravene the zoning objective of the site with part of the site zoned Objective F, open space. It is noted that the previous permission was refused on this basis and there is no justification for a change in such position by the Planning Authority.
- The appellants raise concerns regarding the impact of the proposed development on the Badgers Glen amenity space due to the size, height and nature of the proposed building relative to such. The proposal would be visually obtrusive relative to the adjoining amenity space and the Little Dargle River impact on landscape character and amenity. The light, noise and general disturbance associated with the proposed during both construction and operational phases would impact on existing wildlife at this location.
- The proposal does not comply with the requirements for nursing homes as set out under Section 8.2.3.4(xiii) of the County Development Plan. In particular, the proposal is deficient in terms of the provision open space, adequate parking, the size and scale of the proposal and the accessibility of the proposal to public transport.

- The height, scale and bulk of the proposal is out of character at this location and would be visually obtrusive. The appellants note that the proposal is substantially larger than the proposal approved in 2007 (PL06D.223471).
- The proposal fails to address the existing deficiencies in public foul drainage network in the area, which was one of the reasons for refusal under ref no. D14A/0811. It is noted that the proposals in this case does not address such concerns and the requirements of Irish Water (concerns raised under ref no. 14A/0811).
- It is noted that insufficient off-street car parking has been provided and the proposal would result in on street car parking n future traffic generation and traffic hazard at this location. It is noted that The Council's requirement for development of this type is deficient and the site is not well served by public transport.
- It is considered that the proposal underestimates the level of water consumption required and there are concerns about the ability of the public water system to facilitate the proposal.
- It is noted that in event of a grant of permission being considered the appellants wish that consideration be given to a condition requiring omission of the first or second floors of the proposal and a setback of the top floor by a minimum of 2m.

6.2 Responses

6.2.1 Response by Dun Laoghaire Rathdown County Council.

- It is noted that the Planning Authority is of the opinion that they do not own the section of land zoned for open space included within the site.
- It is noted that area zoned open space is not impacted upon by any structures and is to be used as open space for the facility with only sub-surface structures in this area.
- The proposal development is not of excessive scale.
- Irish Water have indicated no objection to proposal for foul water and water supply.

- Car parking has been provided to the satisfaction of the Transportation Section and congestion is not anticipated.

6.2.2 Response by Downey Planning on behalf of the applicant, LDB Developments Ltd.

- The applicants are the owners of the entire site and the Local Authority have acknowledged such and that they are not the owners of any part of the site.
- It is noted that the proposal is different to the previous proposal refused in that no structures are proposed in the area zoned open space and that this area is to provide open space for the development. The proposal has been designed so that the area of the site zoned F will integrate visually with the adjoining lands zoned F. The applicants note that land zoned open space(F) does not have to be public in nature.
- The proposal does not impact adversely on the adjoining open space (Badgers Glen) and the Little Dargle River and is not located in the riparian corridor associated with the river. It is noted that the proposal would not impact upon any wildlife or existing habitats with a screening assessment determining that a stage 2 Appropriate Assessment is not required.
- The proposal is compliant with Development Plan policy in regards to nursing homes in that adequate open space is provided, adequate parking facilities are provided, the size and scale of development is appropriate and the development is located in close proximity to public transport facilities.
- It is noted that the height and scale of the proposal is appropriate at this location and the level of development is similar to the extent of development permitted under PL06D. 223471.
- It is noted that proposal for foul drainage have been subject to pre-planning consultations and that an upgrade of the existing network in the area is underway. It is noted that Irish Water are satisfied with the proposals.
- It is noted that the assessment of traffic generation and impact on the adjoining road network and junction indicate no negative impacts in regards to traffic. It is noted that 87% of the maximum standard of parking is provided. It is considered that

an appropriate level of parking is provided and that the proposal would not give rise to significant increase in traffic levels at this location.

- It is noted that proposed development is satisfactory in regards to water supply.

7.0 Observations

7.1 An observation has been submitted by the Dodder Anglers Association Dublin.

- It is noted that the scale of development adjoining the existing park is inappropriate and that the proposal includes some land within the park within the grounds of the development. The importance of the stream in terms of wildlife is noted.
- The proposal to connect to existing sewerage system is a concern in that the existing system discharges to the Dodder river and has deemed to be a health hazard.
- The proposal would generate on-street car parking and traffic congestion at an already busy junction.
- The impact on the existing park would be detrimental to public amenity.

7.2 An observation has been submitted by the Eileen Collins, 56 Landscape Road, Churchtown, Dublin 14.

- The observer notes concerns regarding the design and scale of the proposal relative to the existing park in terms of impact on amenity as well as concerns regarding traffic congestion and the ability of the existing sewerage system to cater for the proposal.

7.3 An observation has been submitted by the Shane Ross TD.

- The observer raises concerns regarding the overall scale of the proposal and its dominant impact at this location.

- The proposal is deficient in parking provision and would lead to an increase of on-street car parking and subsequent road safety hazard.
- The site includes part of an open space area maintained by the Council for 30 years and would be a loss of public amenity.
- The impact on the existing park would be detrimental to public amenity.
- The observer raises concerns regarding the design of proposal in terms of access for emergency vehicles.
- The existing sewage system is under pressure and the proposal would put additional pressure on such.

7.4 An observation has been submitted by An Taisce

- The scale of the proposal is too large for the site and would be out of character and scale at this location.
- The proposal includes an area of zoned Objective F, open space within the development and such would be contrary the zoning objective with examples of similar situations assessed previously
- The scale and bulk of development adjoining public open space makes for an abrupt transition and would have an adverse visual impact in regards to the existing park.
- On site car parking is deficient and would lead to overspill onto the existing public road.
- There is a lack of set down/loading bays area on Landscape Road with concern regarding traffic impact associated with delivery vehicles. The proposal is also deficient in terms of access for emergency vehicles.
- It is considered that the assessment of the overall traffic impact is unsatisfactory with concerns that the proposal would have a significant impact on the existing road network and that the level of parking provided is insufficient for the traffic likely to be generated.
- The proposal for foul drainage are noted but the proposal is premature pending upgrade of the existing network.

8.0 Assessment

8.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/land use zoning

Design, scale, visual amenity

Traffic impact

Impact on public open space, wildlife/ecology

Appropriate Assessment

Other Issues

8.2 **Principle of the proposed development/land use zoning:**

8.2.1 The site is subject to two zonings. The majority of the site is zoned Objective A with a stated objective 'to protect and/or improve residential amenity'. A portion of the site (western portion) is zoned Objective F with a stated objective 'to preserve and provide for open space with ancillary active recreational amenities'. Under land use zoning policy, the proposed use (assisted living accommodation) is noted as being permitted in principle. All above grounds structures are located within the Objective A area. Part of the site is within lands zoned Objective F, the proposed use is neither indicated as being permitted in principle or open for consideration. The applicants note that the area zoned Objective F is to be designed and used as open space to serve the proposed development and would be acceptable in the context of the land use zoning objective. The appellants are of the view that the proposal is contrary land use zoning policy and that it is leading to privatisation of public open space.

In relation to this issue I would note that lands zoned Objective F are not confined to lands that are in public ownership or are accessible to public (public open space). Lands such as playing pitches and open space areas within residential developments are not necessarily in public ownership but can be zoned Objective F. The stated objective for this zoning is 'to preserve and provide for open space with ancillary active recreational amenities'. In the case of the proposed development, the area of the site zoned Objective F is designed and laid out as a communal open space/amenity area to serve the proposed nursing home. I would consider that although part of what is a private development the proposal would not be contrary to the zoning Objective relating to open space.

8.3 Design, scale, visual amenity:

8.3.1 The proposal is for a four-storey over basement structure at the junction of Braemor Road and Landscape Road. The approved proposal was revised by way of further information providing for the third floor to be recessed relative to the lower floors as well as a revised stair and lift core to reduce the bulk of the structure. The pattern of development at this location is varied with a significant amount of residential development in the form of two-storey dwellings, although there is a four-storey apartment block similar in height to the proposed development on the opposite side of Braemor Road. The site itself by virtue of its location defined by Braemor Road along its north eastern side, Landscape Road along its south eastern side and the open space area to the west is very much cut off from adjoining structures in the area. I would consider that such would allow for a structure of the bulk and scale proposed without impacting adversely on the visual amenities of the area. There is precedent for permitting a structure of similar scale and bulk on the site with permission having been granted under PL06D.223471 for an apartment block of similar stature and design. I would consider that the corner site allows for a landmark structure such as proposed. I would note that the revised proposal submitted in response to further information would be more acceptable in regards to visual impact and the proposal to recess the top floor provides a better defined roof profile. I would note that in the event of grant permission that the revised plans be implemented.

8.3.2 I would consider that the proposal (revised proposal), when viewed from both public roads is acceptable in design and scale and would not be out of character or scale at this location. I am satisfied that the open space area provides significant separation from the existing built forms in the area and allows the development on site to facilitate the scale of development proposed. In terms impact on the open space area I would consider that the area in question is not diminished in regards to its overall use and amenity by the scale of the structure proposed. The appeal site (the majority of it) is zoned for development and has a structure of similar scale permitted in the past (PL06D.223471) and there is legitimate expectation that the site would be developed in a more intense manner than the existing development on site as well as justification for maximising the use of urban zoned and serviced land in an established built up area. In this regard I would consider that the overall design and

scale of the proposal would be acceptable in regards to the visual amenities of the area.

8.4 Traffic impact:

8.4.1 The proposal entails the provision of vehicular access off Landscape Road with access to a basement car park. The approved development provides for 20 off-street car parking spaces within the basement level and 15 cycle spaces. A Transport Statement was submitted with the proposal. The Transport Statement includes a description of the site and its context in regards to on-street car parking and public transport facilities. An estimation of likely trip generation through the day is provided and is based on similar developments. It is noted that trip generation during peak hours (08:00-09:00 and 17:00-18:00) is low. It is noted that trip generation is not significantly more than the existing level of traffic generated by the existing car wash facility on site. The report notes that anticipated trip generation during the day would lead to exceeding the proposed parking requirement for only one of the hours (11:00-12:00) by one space, however such was based on the original proposal for 18 car parking spaces with the approved proposal providing for 20 car parking spaces. The report notes that there are on-street car parking spaces available along Landscape Road. The report notes that the proposal is within walking/cycling distance for a significant area and population surrounding the site. The report also notes that the site is accessible in terms of public transport with a Luas Line and Quality Bus Corridor within 30minutes walking distance of the site. A revised Transport Report was submitted with the further information response including details of revised trip generation due to the decrease in bed spaces from 107 to 90 spaces.

8.4.2 The proposal provides for a vehicular access off Landscape Road and is located 30m from the junction of Landscape Road and Braemor Road. Visibility at the proposed entrance is of a good standard with a wide footpath area along the western side of Landscape Road. The layout of the junction of Braemor Road and Landscape Road is of a good standard with a right hand turning lane for traffic traveling east along Braemor Road. There has been precedent for permitting a development of the scale proposed at this location with a similar traffic layout (vehicular entrance location) under ref no. PL06D.223471. I am satisfied that the existing road network

has sufficient capacity to cater for the level of traffic likely to be generated and would note that the nature of the operation in site would not result in traffic levels at peak traffic times. The proposal is within walking and cycling distance of significant population including existing local centres. In terms of public transport facilities, such are not located in close proximity to the site, but are located within a reasonable walking distance of the site. In terms of car parking levels, the revised and approved proposal was reduced in bed space numbers and increased in regards to off-street car parking. Based on the revised/approved proposal the maximum requirement under Development plan policy is 23 spaces (1 space per 4 occupants). These standards are maximum standards and are not minimum standards. In regards to the shortfall in spaces, I would consider that it is small and there is a significant level of on-street car parking spaces located along Landscape Road in close proximity to the site. I would consider that the proposal would be satisfactory in regards to overall traffic impact, the existing road network is satisfactory in layout and capacity to cater for the traffic levels likely to be generated, and the level of car parking provided and available at this location being sufficient.

8.5 Impact on public open space, wildlife/ecology:

8.5.1 The appeal submission notes that the proposal would have an adverse impact on the adjoining park area including impact on wildlife and ecology. As noted above part of the site zoned Objective F and such coincides with a small strip of land to the west of the existing car wash business. This strip of land coincides with part of the sloped area to the east of the path located at the eastern portion of the existing open space area. I would note that the proposal does not significantly alter the extent or condition of the existing public open space area to the west of the site. This area is to remain intact and any loss of open space along the western boundary due to provision of defined boundary treatment to separate the proposal from the existing park does not significantly alter the overall character and usability of the existing open space. I would consider that subject to appropriate conditions requiring construction management and management of surface water drainage, that the proposal would have no significant impact on the status of the park area or any flora and fauna on the site. Notwithstanding such the existing park is not designated as a protected habitat of any type.

8.5.2 I would note that the park itself is an urban park area that features a grassed area and some concrete paths. The Little Dargle River runs to the west of the park and there is a wooded area along the river. Where the park adjoins the site is not an area of significant ecological value or diversity and is a grassed area that is maintained, (presumably the grass is mowed) and paths maintained. This is not to diminish the value of park as an amenity, however I do not consider that the proposal adjoining such including using a small strip of the existing area impacts adversely on any habitats or flora or fauna. There is some suggestion in the observations that the proposal has an adverse impact on the river corridor and that the proposal is with the riparian strip associated with such. The site is clearly separated from the river by the existing urban park area and with the characteristics of the park area as described above is a simply maintained grass area in an urban setting. In this regard I would note that the proposal would have no adverse impacts on habitats, ecology or wildlife. In regards to Appropriate Assessment and Natura 2000 sites, such shall be addressed in the next section of this report.

8.6 Appropriate Assessment:

8.6.1 The EU Habitats Directive (92/43/EEC) Article 6 (3) requires that “any plan or project not directly connected with or necessary to the management of the (European) Site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. In the light of the conclusions of the assessment of the implications for the site and, subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public”. The Board as a competent authority "shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned". In this regard it is appropriate to carry out a stage 1 screening assessment and then if necessary a stage 2 appropriate assessment.

8.6.2 The applicant submitted an Appropriate Assessment screening report. The report notes that the site is not located within the defined area of any Natura 2000 site. The

report identifies all Natura 2000 sites with 15km of the site and lists them as follows...

Baldoyle Bay SAC (Site Code 000199)

Baldoyle Bay SPA (Site Code 004016)

North Bull Island SPA (Site Code 004006)

North Dublin Bay (Site Code 000206)

South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)

South Dublin Bay SAC (Site Code 000210)

Dalkey Island SPA (Site Code 004172)

Howth Head Coast SAC (Site Code 000202)

Howth Head Coast SPA (Site Code 004113)

Rockabill to Dalkey Island SAC (Site Code 003000)

Knocksink Wood SAC (Site Code 000725)

Glenasmole Valley SAC (Site Code 001209)

Wicklow Mountains SAC (Site Code 002122)

Ballyman Glen SAC (Site Code 000713)

The report outlines the characteristics and conservation objectives of each of the sites. It is noted that the proposal would have no negative impact on the integrity of any of the Natura 2000 sites with it noted that best practice construction management will be implemented and the proposal will be connected to the foul sewer network. In regards to direct, indirect or secondary impacts it is noted that the proposal is not located within the confines of any designated site and is a reasonable distance from the nearest of such sites. It is noted that the proposal would have no effects in regards to water quality given proposals for foul and surface water, no significant emissions and all excavation works are to be carried out subject to best practice construction methods. It is noted that the proposal would have no effects in regards to loss of habitat, disturbance/fragmentation of species in the designated sites and would have no effect on the conservation objectives or status of the designated sites. It is noted the proposal is not directly connected with or necessary to the management of the designated sites. It is also noted that the proposal taken in conjunction with other projects and plans would have no significant effects on the

integrity of any of the designated sites. The report concludes a Stage 2 Appropriate Assessment is not required.

8.6.3 As noted earlier in the light of the conclusions of the assessment of the implications for the site and, subject to the provisions of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public". The Board as a competent authority "shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned". I am satisfied that the scope and information included in the screening report submitted is sufficient to determine whether a Stage 2 Appropriate Assessment is required. I would note that the proposal is not located within a designated site and is not directly connected with or necessary to the management of the designated sites. The proposal has a limited impact in regards to water quality in that it is connected to existing public infrastructure in regards to both foul water and surface water disposal. The proposal would have a limited impact in regards to emissions to air and discharge of suspended solids to watercourses due its location and such can be managed adequately through appropriate construction management. I would also consider that the proposal by virtue of its nature, scale and location relative to designated sites would not have significant effects on its own or taken in conjunction with other plans and projects. I would note that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites, in view of the sites' conservation objectives and in this regard a Stage 2 appropriate assessment would not be required.

8.7 Other Issues:

8.7.1 The appeal submission and observation raise concern regarding the deficient of the existing sewerage network in the area. The concerns of Irish Water in regard to the previous proposal on site are also raised (D14A/0811). I would note that the proposal for foul drainage, surface water disposal and water supply were considered satisfactory by both the Drainage Services Section of the Council and Irish Water.

The proposal is an urban development on zoned serviced land and connecting to existing drainage infrastructure. I am satisfied that the proposal is acceptable in this regard.

8.7.2 The issue of land ownership is raised. This concerns the strip of land along the western side of the site that is current zoned Objective F and based on the existing arrangement on site is part of the existing park area. The applicants claim they are the full owners of the full extent of the site. It is notable that the Council acknowledge that they do not own any part of the site and the applicants have clarified the extent of the Council's landownership at this location. Notwithstanding such I would note that any dispute regarding land ownership is a civil matter and is not an issue to be determined by the Board.

9.0 Recommendation

9.1 I recommend a grant of permission subject to the following conditions.

10.0 Reasons and Considerations

10.1 Having regard to the zoning of the site and the transportation objectives of the current development plan for the area, the nature of development proposed and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health 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.

11.0 Conditions

1. The development shall be in accordance with the plans and particulars lodged with the application and as amended by the plans submitted on the 29th day of September 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

3. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

4. 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, traffic routes to and from the proposed development and off-site disposal of construction/demolition waste.

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

5. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0700 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

6. A plan containing details for the management of waste and recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

7. Details of the materials, colours and textures of all the external finishes to the proposed development, along with the fixing methodologies proposed for use with vertical cladding panels, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. Access road, footpaths and external lighting on site shall be provided in accordance with a scheme details of which shall be submitted to the planning authority for written agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

9. Boundary treatment and landscaping of the open space area on site shall as per the plans submitted.

Reason: In the interest of visual amenity.

10. Provision shall be made for a loading bay/set down area along Landscape Road. Details of this provision, including swept manoeuvring paths, bay dimensions etc, shall be submitted to and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To ensure a satisfactory layout for commercial vehicles, in the interests of traffic safety.

11. No signage or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building) or within the curtilage of the site) in such a manner as to be visible from the outside of the building unless authorised by a further grant of permission.

Reason: In the interests of visual amenity.

12. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act, 2000. The level of the contribution shall reflect the floor area and extent of development permitted. The contribution shall be paid prior to the commencement of development or in such phased payments the planning authority may facilitate. 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 Scheme.

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

Colin McBride
Planning Inspector

28th February 2017