



An
Bord
Pleanála

Inspector's Report PL 29N.248050

Development	The demolition of the structures on site and construction of mixed use development comprising a retail store, nursing home facility, restaurant, workshop and associated works.
Location	Newtown, Malahide Road (R107), Dublin 17
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3584/16
Applicant	Dunmull Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant First Party v Condition
Appellants	Tesco Ireland Limited v Grant Dunmull Limited v Condition
Date of Site Inspection	10 th May 2017
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is located in Coolock on the Malahide Road south of the major signalised junction with the N32 (Belcamp Road), adjacent to the Clare Hall district shopping centre. It is bounded to the west by the Malahide Road (R107) with the Darndale housing estate beyond; to the north across an access road by a motor vehicle garage (Fast Fit First Stop) with Clare Hall Shopping centre beyond, to the east and south east by Clare Village apartments, and to the south by Grove Lane, a cul de sac county road which provides access to a small development of traveller accommodation units and an informal halting site. The county road is closed off from the Clare Village development by a gateway. This stretch of the Malahide Road is a dual carriageway with a planted central median. There is no central median opposite the cul-de-sac, so that it is possible to exit the cul de sac northwards as well as southwards, and also for traffic on the southbound lane to loop northwards at this point on the road. There is also a GAA club grounds and a residential area (Greenwood) to the south.
- 1.2. The primary road network in the vicinity is the north-south Malahide Road linking Malahide to Dublin City Centre, a dual carriageway road accommodating a Quality Bus Corridor (QBC). The junction to the north is an interconnection of the east-west N32 Northern Cross Route which links the Malahide Road to the M50 and M1 Motorways to the west and the east-west Grange Road which links the Malahide Road to Donaghmede/Baldoyle to the east.
- 1.3. The site is occupied by an existing Topaz filling station and various vacant buildings, including former motor showroom (Crossan Motors) with offices, a tyre centre and a commercial workshop and office. A vacant parking area occupies the southern half of the site.
- 1.4. The site is given as 10,203m² or c1.02ha.

2.0 Proposed Development

- 2.1. The proposed development is the demolition of the structures on site and construction of mixed use development comprising a retail store, a nursing home facility, a restaurant, a workshop and associated works. The development includes:

- A 2-3 storey convenience retail store of c.2,351m² gross, 2,109m² net, with subsidiary alcohol sales area of 104m²; undercroft car parking at ground floor and entrance plaza.
- A 6-7 storey c161 bedroom nursing home facility c8,754m² with associated ground floor garden and first floor terrace areas.
- A single storey cafe/restaurant c183m² gross.
- A single storey retail workshop c106m² gross – which will be directly associated with the adjoining Fast Fit First Stop operation.
- 126 car parking spaces: 46 at undercroft and 80 at surface level.
- 9 motorcycle parking spaces.
- 45 bicycle parking spaces.
- A substation
- Bin stores
- Closing off of existing vehicular entrance to the Malahide Road
- Creation of a new single vehicular access and egress point to the site from the Malahide Road

2.2. The application was accompanied by:

- a Preliminary Construction and Demolition Waste Management Plan prepared by Punch Consulting Engineers.
- a Traffic and Transport Assessment prepared by Punch Consulting Engineers.
- an Engineering Planning Report prepared by Punch Consulting Engineers.
- a Preliminary Mobility Management Plan prepared by Punch Consulting Engineers.
- a Planning Application Report, an Alcohol Sales Study, and a Retail Statement, all by Brock McClure Planning & Development Consultants.

- a design statement prepared by AFEC International is provided for the nursing home and an energy Statement (Part L Performance) for the overall development, by OCSC.

2.3. The Traffic and Transport Assessment includes:

2.4. The intersection of Malahide road with the east / west R139 at Balgriffin / Clare Hall is a major source of delay on both routes.

2.5. Atkins Consulting Engineers were appointed by FCC and DCC to provide engineering consultancy services from the concept stage through to construction stage for the proposed realignment of the R107 Malahide Road, the east west Distributor Road from Balgriffin to Clonshaugh Road and the upgrade of the N32 National Primary Road. The key and essential components of the new road network include the provision of a continuous new east-west Distributor Road from the existing Malahide Road westwards to the Clonshaugh Road, the provision of a realigned Malahide Road to effectively by-pass Balgriffin village and the provision of new junctions to supplement and enhance the capacity of the Malahide Road and the existing N32/Malahide Road junction at Clare Hall. A drawing showing the distributor road which is to join the Malahide Road opposite the site, and its impact on the Malahide Road, is included in the report.

2.6. The development's location means that trips to/from the development using public transport, on foot or on bicycle is a viable option for employees and visitors alike. Pie charts extracted from TRICS, which are based on surveys of similar developments, are provided.

2.7. It is assumed that people arriving to the development from the south will do so by turning right from Malahide Road into the Clarehall Shopping Centre development and performing a U-turn at the roundabout within, and return to the junction where they can exit left along Malahide Road and approach the proposed development, i.e. they are analysed as using the signalised junction for two manoeuvres. This will result in a robust analysis as opposed to arriving vehicles performing an illegal a U-turn on Malahide Road to return south towards the development; 3w2 the analysis requested by Dublin City Council at scoping stage.

2.8. The proposed development has provision for 126 car parking spaces which is within the maximum allowable 157 spaces as set out in the CDP2011-2017.

- 2.9. An assessment has been made of the proposed and existing pedestrian, cyclist and public transport facilities.
- 2.10. There is an extensive footpath network in all directions on leaving the site, which provides safe passage for all users to the development from adjacent residential settlements. Pelican crossings are located at the major interchanges in the vicinity of the development. As the potential for pedestrian trips to and from the development is high, it is important that the development is properly integrated into the existing footpath network. Provision has been made for a pedestrian access to the rear of the site to connect to the existing footpath network which links to existing offices and accommodation developments to the east.
- 2.11. 5min and 10min walking areas are shown on map.
- 2.12. The site is located adjacent to Malahide Road Bus Stop (northbound) and Belcamp Lane Bus Stop (southbound). This provides ease of access to/from the development via public transport with multiple buses and routes available to the public, throughout the day, at regular intervals. There are Bus Lanes along Malahide Road in both the northbound and southbound carriageways. Bus routes are available from these two stops and their timetables are provided in the submission.
- 2.13. The Engineering Planning Report includes:

Surface Water

- 2.14. The site is c1.02ha of which 95% is hard standing.
- 2.15. A new surface water sewer network will be provided for the proposed development which will be entirely separated from the foul water sewer and will discharge at an overall reduced rate to the existing public surface water culvert running diagonally along Malahide Road.
- 2.16. Proposals include:
- Green roofs;
 - Attenuation to provide storage to reduce the outfall to 7l/s with a storage of 330m² for a 100 year event with 10% climate change allowance;

- Permeable paving with below ground attenuation which extends below the normal asphalt aisles;
- Surface runoff outfall via a class 1 petrol interceptor located upstream of the attenuation tank. The proposal will have a reduced impact on the receiving environment compared to the existing situation thereby reducing the potential for flooding of the existing public sewers.

Foul Drainage

- 2.17. Existing foul drainage is discharged to a foul pumping station located to the south of the site, which is then pumped via a rising main to the existing public system.
- 2.18. It is proposed to discharge foul effluent from the proposed development by gravity to the existing 750mm diameter public trunk sewer on the western side of Malahide Road.

Watermain

- 2.19. There is an existing 150mm Asbestos watermain to the west of the site with a 25mm MDPE spur serving the existing site.
- 2.20. It is proposed to connect to the existing 150mm watermain to the west.
- 2.21. To reduce water demand and foul drainage, water conservation measures will be incorporated throughout.

Roads Access & Parking

- 2.22. Retail - deliveries will take place outside the opening hours using HGV articulated lorries; nursing home – deliveries will take place using 'Transit' type vans. Flatbed trucks can also access the nursing home should it be required; workshop/retail – deliveries will take place outside the opening hours using 'Transit' type vans.

CDP 2011-2017 parking standards

Building	GFA/Beds	Standard car spaces	Disabled car spaces	Motorbike spaces
Nursing Home	162 beds	81 @1/2beds	4@5%	3@4%
Retail	2,156m ²	72@1/30m ²	4/@5%	3@4%
Café/ Restaurant	183m ²	2@1/150m ²	1@5%	0@4%
Workshop/Retail	106m ²	2@1/75m ²	0@5%	0@4%

Proposed parking provision

Building	GFA/Beds	Standard car spaces	Disabled car spaces	Parent & Child	Motorbike spaces
Nursing Home	162 beds	44	3		5
Retail	2,156m ²	64	4	10	4
Café/ Restaurant			1		
Workshop/Retail			0		

Cycle parking requirements and provision

Building	GFA/Beds	DCC DCDP 2011-2017 Zone 3 Cycle spaces	Proposed	
			Open cycle spaces	Safe cycle spaces
Nursing Home	162 beds	27@1/6beds	10	17
Retail	2,156m ²	11@1/200m ²	14	4
Café/Restaurant	183m ²	1@200m ²		
Workshop/Retail	106m ²	1@200m ²		

- 2.70. Internal pedestrian crossing points with associated dropped kerbs and tactile paving will be provided at pedestrian desire lines. The public footway is extended across the site's entrance with a 25mm dropped kerb.
- 2.71. A stage 1 road safety report has been carried out (attached as an appendix, to the report).
- 2.72. Public Transport – bus routes 15, 27, 27x, 42, 43 and 27a, run at regular intervals. The closest bus stop is 100m away on Malahide Road
- 2.73. A Preliminary Mobility Management Plan is provided.
- 2.74. There is little risk of flooding.
- 2.75. The Stage 1 Road Safety Report includes: as part of the audit brief the Audit Team were informed by the Design Team that all deliveries for the retail unit, cafe/restaurant, nursing home and retail/workshop will be carried out outside the working hours.
- 2.76. Signage required for left out. (Response: ✓)
- 2.77. A route for cyclists to be developed with suitable surfacing and without kerb upstands to the bicycle stand beside the café/restaurant. (Response: ✓)
- 2.78. Connecting footpaths to be provided from the access road junction to the nursing home and café/restaurant footpaths. (Response: it is considered that the two pedestrian accesses proposed are sufficient and easily accessible; the footpath along Malahide Road has continuity, and accesses to the proposed buildings are easily identifiable. A footpath adjacent to the mini roundabout is ideally located to ensure pedestrian connections between Nursing Home and café/restaurant buildings. This response was accepted by the audit team.)
- 2.79. Footpaths of suitable widths to be provided to all crossing points. (Response: ✓)
- 2.80. Yield signs to be provided on mini-roundabout signs. (Response: ✓)
- 2.81. Drivers may feel that the car park to the rear of the proposed retail unit is the main parking area because of the location and shape of the road marking arrows. Drivers should be encouraged to turn left into the surface car park rather than travel straight ahead through a combination of road marking arrows and signage. (Response: ✓)

- 2.82. Adequate visibility to be provided for drivers exiting the surface car park or the layout of the car parking revised to provide a one-way system to the back of the development. ✓
- 2.83. Existing dropped kerbs (for existing exits which are to be closed) to be removed and replaced with full height kerbs, verge and footpath. (Response: ✓)
- 2.84. The effective footpath width to be provided for the intended use of the gated walkway between the nursing home and the site boundary. (Response: the proposed footpath between the nursing home and the fence is for maintenance purposes and not designated for the mobility impaired, hence suitably gated. This response was accepted by the audit team.)
- 2.85. The Traffic and Transport Assessment prepared by Punch Consulting Engineers. includes:
- 2.85.1. If appropriate provisions and alternative transport options were not in place, the transport modal split would mirror the existing trip pattern for Dublin city:
walk 14%, bicycle 7%, public transport 22%, car or motorbike 53%, van or lorry 4%.
- 2.86. An action plan is proposed for the future tenant which includes: encouragement of walking, cycling and use of public transport by hard and soft measures (e.g. hard measure re cycling – provide showers, soft measure – encourage establishment of a walking club); encourage car-pooling, provide opportunities for staff to work from home. Deadlines for action are set out and a mobility management co-ordinator will provide an annual report to the planning authority for a period of 3 years.
- 2.87. A site audit for the proposed development is provided which includes a series of questions and answers e.g.:
- Are the car parks managed e.g. permit system barriers, pay and display, short term spaces in areas of high demand? Answer: There is no pay and display car parking available.
- 2.88. Modal split targets as per Smarter Travel: A Sustainable Transport Future are set, but not cited
- 2.89. A sample monitoring report template is provided which includes If the aims and targets are not being achieved then negotiation and review of the travel plan actions are likely to be the most effective tools for achieving outcomes, and it is

recommended that the local authority work with the site travel plan coordinator to agree measures or implementation most likely to achieve the targets.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided, 25/1/2017, to grant permission subject to 17 conditions, including:

4) shop and café – a) advertising; and b) windows; c) off licence – display, advertising and limiting the area of such use; d) limiting sound from speakers; e) no deliveries shall take place between 2100hrs and 0800 hrs; f) the shop and café hereby permitted shall not be open to the public before 0730hrs or after 2200hrs on any given day. Reason: In the interests of orderly development.

6) no development until a landscape scheme has been agreed;

7) a) car park management plan to be agreed prior to commencement. The car park serving the entire development site shall be managed through signage and other appropriate physical measures to ensure segregation of parking by use, for example parking associated with the retail element shall not be allowed to use the visitor parking associated with the nursing home.

c) the proposed new vehicular entrance onto the Malahide Road shall be provided to the requirements of the Roads Maintenance Division.

d) a project traffic management plan, for all stages of construction traffic, shall be agreed in writing with the planning authority before demolition, excavation and construction commences. The plan shall detail access arrangements for labour, plant and materials and shall indicate the locations of plant and machine compound.

10) all external lighting shall comply with the standards set out for Environmental Zone 'E3' in the Institution of Lighting Professionals best practice guidance documents 'Guidance Notes for the Reduction of Obtrusive Light GN01:2011' (as amended).

11) Construction and Demolition – a) management plan; b) work hours; c) in the event that hazardous soil, or historically deposited waste is encountered during the construction phase, the contractor must notify Dublin City Council and provide a Hazardous/Contaminated Soil Management Plan, to include estimated tonnages, description of location, any relevant mitigation, designation for disposal/treatment, in addition to information on the authorised waste collector(s); d) e) and f) ongoing management of waste.

12) Waste standards for commercial / industrial development

13) Noise

14) Maintenance of streets during construction.

15) Hours of construction

3.2. Planning Authority Reports

3.2.1. Planning Reports

The first planning report of 18/10/2016, recommended a further information request which issued on 4 points:

- 1 Sunlight and Daylight studies using the assessment tools from the BRE's 2011 best practice document Site Layout Planning for Daylight and Sunlight to examine the potential impacts on adjoining 3rd parties and adjoining development land. A comparison with the impacts that would have been generated by the previous permitted development Reg. Ref. 1158/07 to be provided.
- 2 Assess potential impacts from potential micro-climate issues and from potential solar glare/dazzle upon 3rd party sites and road users and provide details of any appropriate subsequent treatments.
- 3 Provide viewing lines from potential overlooking windows etc, over adjoining residential areas and any appropriate treatments.
- 4 Clarify the level of obviation provided by the metal mesh facades from the 1st floor of the proposed retail unit.

The report refers to the history of the site and surrounding lands, and the issues raised in an observation, and assesses the proposal against the Retail Planning Guidelines 2012, the Retail Strategy for the Greater Dublin Area 2008-2016 and the Development Plan 2011-2017.

The previous 32,533m² permitted/lapsed development ranged from 8 storeys (c32m) to 6/7 storeys (20-23m) over double basement (north to south) with a plot ratio of 2.8 and a site coverage of 68% (Reg Ref 3758/14). The ABP permitted development included 7789m² gross retail floor space, 6654m² office space and 157 apartments with 10 live work units.

In this instance overall combined 11,394m² will have a stated plot ratio of 1.0 and site coverage of 39.2% which is an obvious reduction in site development density. The plot ratio and site coverage comes within the (indicative) tolerances for Z14 lands. The 2012 Clongriffin – Belmayne (North Fringe) LAP requires that buildings within the KDC should be at least 5 storeys in height.

The proposed 8,754m² nursing home block ranges from 7 storeys (24m) at its southern prow-end stepping down to 6 storeys (21.5m) as it proceeds northwards, with a pop-up feature element at the northern gable end of the block which sweeps up to 26m where the development addresses the Malahide Road.

The unimplemented 6-8 storey mixed use block within this island area would have formed quite a comprehensive and consolidated urban edge to the Malahide Road – with its height and extended frontage providing a better proportional framing of the Malahide Road's wide street cross section. The current combined proposed developments represent a significant reduction in scale, bulk and massing as well as height across the entirety of the site from the permitted scheme, it now represents a more comprehensive development of the parent site to the previous scheme confined to the development of a 2 storey gable-fronted retail building along a re-landscaped filling station. The nature and use of the proposals for the northern end do not rule out a future evolving consolidation of the streetscape at the northern end of the site. As noted the retail unit will now more extensively address the Malahide Road due to the reorientation of its long axis towards the street.

The proposal will not lessen the limited existing connectivity, between the site and the surrounding area, with an option for a pedestrian access to Clarehall in the north

east corner of the site. Further along the line there is the possibility that the Fast Fit site will be amalgamated in some manner with the development site. The developments to date in the Clarehall quarter of the KDC have been unilateral in their formation with no obvious design coherence or sequential relationship between them. There are also significant areas of surface parking around some existing developments. The proposal provides an opportunity to provide some containment of this quarter.

The proposed uses will add to the existing viable mix of the wider KDC area, that serves the local catchment. There are substantial vacant/opportunity development lands adjacent or nearby within the KDC particularly the quarters to be occupied by Belmayne Town Square to the north east and Belcamp Lane across the Malahide Road.

3rd party amenity – there is already a degree of baseline dis-amenity from the existing and previous commercial activity on site and the previously permitted development established a baseline for various impacts. The nursing home would normally be acceptable within Z1 and compatible with the adjoining apartment scheme generating limited or periodic external activity.

Sunlight Daylight – the proposal represents a substantially less substantive and intensive form of development to the previous permission. The 2 storey retail unit will be set further away from the eastern boundary. An assessment of potential impacts would be useful. Impacts from micro-climate and solar dazzle have not been assessed and it is recommended that same is required.

Overlooking – 11m distance to 3rd party boundaries from new first floor opes; no escalator rule in the development plan. The DECLG 1999 Residential Planning Guidelines, now superceded, required 35m distances. The 2009 DEHLG Urban Design Manual recommends appropriate obviation measures.

The 6-7 storey nursing home is set further from the eastern apartments than the previously permitted 5-8 storey mixed use scheme. It is 22m away at its nearest point.

Viewing lines and obviation to be established.

The retail unit, previously set against the eastern boundary, is now 23m therefrom (40m from nearest Clare Village apartments), will have a 1st floor corridor screened

with mesh façade rather than windows, (similar to elevation to Fast Fit). The amount of obviation to be detailed.

Potential nuisance from security lighting can be conditioned.

Retail – there is no requirement for retail impact assessment; located in Key District Centre (KDC) one of 8 such outside the city centre. While not nominated in the Retail Strategy for the Greater Dublin Area, the CDP has designated both the western and eastern North Fringe KDCs as Level 3 retail centres.

Some 6,510m² of retail space was permitted by ABP on this site. The current proposal is much less: 2109m² net, an increase from the previous 1,139m² proposal.

The applicant's retail assessment notes that the total floor space assigned to commercial use in the KDC is 18,836m². Convenience – 5,582m², comparison 5,960m², service / mixed floorspace – 3,388m², vacant or unimplemented 3,905.75m². It is therefore considered that the 20,000m² net retail floor area recommended for the KDC will not be exceeded. It is considered that the typical offer of the proposed operator will complement the existing retail provision.

Off-licence – part off-licences are permissible uses under the Z14 zoning. The applicant proposes a 103m² alcohol sales area which now represents c4.8% of the net retail floor area and can be considered ancillary to the main retail use. Alcohol sales will take place within the retail opening hours.

An alcohol sales study accompanies the application.

Nursing Home – a survey of nursing homes in the area provided, shows a new 165 bed facility operated by Clare Care 700m away at the Northern Cross and refers to the demand for additional bed spaces.

Traffic / Access / Parking – RTDP comments are cited.

Appropriate Assessment – connected to water services, phase 2 AA not required.

The report recommended a FI request which issued, as set out above.

3.2.2. Other Technical Reports

3.3. Waste Regulation Section, Waste Management Division - recommending conditions:

- Construction and Demolition management plan prior to commencement.

- Requirements re. hazardous soil or historically deposited waste.
- Storage of waste on site.
- Monthly reports
- Listing legislation with which development must comply.
- Listing bye-laws with which commercial / industrial development must comply.

3.4. Engineering Department Drainage Division - recommending conditions.

3.5. Environmental Health – recommending conditions

- Construction hours
- Air handling submitted for approval
- Dust control in accordance with engineering proposal.

3.6. Roads Traffic Planning Division (RTPD)

The site is situated on the eastern side of Malahide Road approx. 400m south of the Northern Cross junction, part of a landholding bound by local roads on three sites and the Malahide Road to the west. The Malahide Road at this location is an urban dual carriageway with an on-road advisory cycle lane, a bus lane and two traffic lanes in the southbound direction. There is also a footway along the road verge. There is a central median opposite the development site which means traffic turns left into and out of the development. There is a signalised junction on the R107 north of the proposed development which includes pedestrian crossing facilities. There is also a signalised pedestrian crossing south of the proposed site.

Permission was previously granted by DCC for a convenience retail store and to retain the existing Topaz service station; refused on appeal because it would compromise the efficient operation of the important Malahide Road traffic route and Quality Bus Corridor, would result in a haphazard and disorderly approach to traffic management in this area, and would endanger public safety by reason of traffic and cyclist hazard.

The parking proposals are generally in line with Development Plan. A single vehicular access is proposed. It is proposed to close off the existing vehicular accesses. Only southbound traffic on the Malahide Road will be able to access, and

all vehicles accessing the nursing home and Aldi will use the same entrance and circulate a mini roundabout.

A Traffic Impact Assessment has been submitted. The TA predicts that the proposed development will have a negligible impact on the capacity of the Bus Corridor and will not unduly impact on cyclists.

The proposed development will have a negligible impact on the operational capacity of the road network, the nearby junctions etc.

A BRT (Bus Rapid Transit) is proposed along this road.

The proposed development will reduce the number of junctions from 5 down to 2 which will give a reduced number of conflict points for pedestrians on the public footpath, conflicts with mainline traffic the QBC, future BRT and cyclists.

The existing layout has two junctions running adjacent to each other (First Stop and Tyreland) with no markings or signage. The proposed development will eliminate the Tyreland junction thus improving circulation and traffic safety.

The proposed development will have less servicing requirements: no movement of large fuel tankers. Proposed nursing home will have less vehicular trips than the petrol station and the majority of those will be off peak.

Recommending conditions.

4.0 Planning History

29N.244821, PA Reg Ref No. 3758/14, on a smaller site than the subject site, planning permission was refused for the demolition of the existing buildings on site and construction of two storey convenience store with ancillary undercroft and surface car parking and all associated site works, for two reasons:

1. The Malahide Road is a heavily-trafficked Regional Road connecting to Dublin city centre, and is served by a quality bus corridor and cycle lanes. The subject site is located to the south of the entrance to Clarehall Shopping Centre, and to the north of the junction of the Malahide Road with Grove Lane. The Grove Lane junction was to have been signalised to serve the Clare Village residential development under An Bord Pleanála appeal reference number PL 29N.207391 (planning register reference number 5441/03). The subject site has a number of entrances off the Malahide Road between these two junctions.

Having regard to the nature and scale of the proposed development, it is considered that the proposed development would intensify the use of a private access off a major traffic route at a location having a proliferation of such accesses in close proximity. It is considered that the proposed development would interfere with the free flow of traffic and would compromise the level of service and carrying capacity of the R107 regional road at this location, particularly having regard to the proximity of the two junctions to the north and the south of the landholding. The Board is not satisfied that the proposed development would not detract from the efficient operation of the quality bus corridor or endanger cyclist safety. Neither is the Board satisfied that the proposed development would not compromise proposals for the realignment of the R107 Malahide Road in close proximity, as set out in the Dublin City Development Plan 2011 - 2017. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site is subject to a Z14 mixed use zoning objective, as set out in the Dublin City Development Plan 2011 - 2017. The neighbouring land to the east is subject to a Z1 residential zoning objective. Section 15.9 of the Development sets out the policy of the planning authority in relation to contiguous transitional zone areas, whereby "it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone." The Board is not satisfied that the proposed development is overall of a quality appropriate to a mixed use zone, including the architectural treatment of the side and rear elevations, particularly facing the apartments in Clare Village. Having regard to the scale and extent of the proposed development, and its proximity to the existing apartments, the Board is not satisfied that the proposed development would not seriously injure residential amenity by reason of overshadowing and diminution of daylight. The Board also has concerns about the proximity of the loading bay to the apartments, and the lack of clarity in relation to proposals for venting/extraction. The Board is, therefore, not satisfied that the proposed development would not prejudice the Z14 zoning objective for the subject site, and furthermore, considered that the proposed development would fail to support the Z1 zoning objective for the neighbouring residential area. The proposed development would, therefore, be contrary to the provisions of the Development Plan, and would be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board had regard to the location of the proposed access, and the proximity of other accesses and junctions on the Malahide Road in the vicinity, and considered that the proposed development would compromise the efficient operation of the important Malahide Road traffic route and Quality Bus Corridor, would result in a haphazard and disorderly approach to traffic management in

this area, and would endanger public safety by reason of traffic and cyclist hazard.

29N 223995, PA Reg Ref No 11/5807, planning permission granted on a 1.13ha site for 198 residential units, retail development, office accommodation, crèche and car parking (2 levels of basement parking) along with demolition of petrol filling station and car garage, with access from road to Clare village. This permission was not acted upon and has expired.

A DTO report is referenced on the file as stating that the development of safe and direct pedestrian & cycle routes in the vicinity of the Malahide Road / N32 junction is an essential prerequisite to achieving accessibility at a local level, reducing pedestrian severance and providing for the development of this emerging mixed use urban centre in a cohesive manner.

29N.232864 PA Reg Ref No 2436/08, ABP application to amend permitted development (Reg. Refs. 1158/07; ABP Ref. PL.29N.223995) including Relocation of Access, Reconfiguration of Ground and First Floor levels and Basement Levels 1 and 2 refused by the Board for the following reason:

The proposed car park entrance is located in close proximity to an adjoining junction of the Link Road and Grove Lane and the use of this junction is part of the access to the large scale, residential development east of the site permitted under planning appeal reference number PL 29N.207391 and planning register reference number 3143/05. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements and conflict in traffic flows the development would generate in close proximity to the permitted use of the junction of the Link Road and Grove Lane by adjoining developments.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan, 2016-2022 is the operative plan.

Relevant provisions include:

The site is in an area designated a Strategic Development and Regeneration Area (SDRA) and a Key District Centre (KDC).

The retail strategy for Dublin city is to consolidate the city centre retail core as the premier retail destination in the State, to promote an upper tier of retail development in the KDCs and a lower tier of district centres to cater for surrounding communities. The plan contains provisions in relation to the quantum of retail floorspace required by area and the in relation to part off-licences (subsidiary to the main use of the shop where the area used for the display of alcohol products is no more than 10% of the total floor area), (these matters are as set out in detail in the Dublin City Council Planner's report).

It is the Policy of Dublin City Council (MT1) To support the sustainability principles set out in the documents: The National Spatial Strategy/National Planning Framework, The National Transport Authority's Transport Strategy for the Greater Dublin Area, Smarter Travel, A Sustainable Transport Future 2009-2020, Regional Planning Guidelines for the Greater Dublin Area, Design Manual for Urban Roads and Streets (DMURS), and the National Cycling Policy Framework and national Cycle Manual and, to ensure that land-uses and zoning are fully integrated with the provision of a high-quality transportation network that accommodates the movement needs of Dublin city and the region.

The transportation policies and objectives of the development plan are guided by the objectives of the National Transport Authority's (NTA's) transport strategy for the Greater Dublin Area 2016-2035. The document 'Smarter Travel – A Sustainable Transport Future'(Department of Transport, Tourism & Sport) is also influential in encouraging the growth of more sustainable modes of transport, which sets out

ambitious national-level targets for the period 2009-2020 which included a reduction in the total share of car commuting from 65% to 45%, and a related increase in walking, cycling and public transport modes to 55% of total commuter journeys to work.

The plan endorses the Design Manual for Urban Roads and Streets, which places a new focus on the role of streets in sustainable place-making and encourages layouts that are suited to all users and it is an objective (MTO45) of the plan to implement best practice in road design as set out in the manual.

The structure of the city will be augmented by the development of the SDRAs and the KDCs. There is an emphasis on the contribution that good streets and architecture can make to regeneration and a re-affirmation that Dublin will remain a predominantly low-rise city with defined height in limited locations.

One of the challenges to shaping the spatial structure and urban form of the city is to extend the form and structure of the city for the benefit of communities in the new developing areas such as Belmayne-Clongriffin and Cherry Orchard-Park West, including connectivity to these developing areas, and in doing so embrace the potential for quality urban design and place-making.

These SDRAs have substantial development capacity, not only for residential uses, and a series of detailed guiding principles incorporating urban design and green infrastructure guidance have been set out for each SDRA.

The key district centres (KDCs) represent the top-tier of urban centres outside the city centre, a number of which form part of the larger SDRAs. Each of the 8 KDCs underpin a wider area and act as strong spatial hubs providing a comprehensive range of commercial and community services to the surrounding populations. The designated KDCs closely align to public transport rail corridors. This development plan will reinforce the KDCs as sustainable anchors for the suburbs.

Guiding principles for development in SDRAs –

SDRA 1 North Fringe (Clongriffin – Belmayne) - the Local Area Plan is based on the following key objectives/guiding principles:

1. to create a highly sustainable, mixed-use urban district, based around high-quality public transport nodes, with a strong sense of place;
2. to achieve a sufficient density of development to sustain efficient public transport networks and a viable mix of uses and community facilities; and
3. to establish a coherent urban structure, based on urban design principles, as a focus for a new community and its integration with the established community, including the following elements:
 - an interconnected network of streets and public spaces; to promote the creation of a high-quality public domain by establishing a high standard of design in architecture and landscape architecture, and;
 - to use building heights to define key landmark locations, including: minimum heights of 5 stories for the key district centres at Clongriffin rail station and the N32/Malahide Road junction.

5.2. Clongriffin – Belmayne Local Area Plan 2012 – 2018

The local area plan includes framework plans for development areas within the plan area incorporating detailed urban design objectives. Relevant provisions include:

The Movement and Transport Section which includes key aims:

- To improve accessibility and maximise the use of public transport.
- Cater not only for travel demand but also for reductions in congestion and pollution.
- Place a stronger emphasis on sustainable forms of transport such as walking, cycling and public transport, particularly for short trips.
- Take a pro-active approach to influencing travel behaviour and effective traffic management.
- Prioritise transport and movement schemes, particularly those that increase the use of public transport, walking and cycling that can be implemented in the short term.

- Underpin all transport and movement measures with an integrated land use and transportation strategy that promotes intensification in accessible areas.
- Reduce vehicle miles travelled and travel time to improve air quality and mitigate the effects of CO² emissions.

Movement and Transport Strategy - The following principles will be incorporated into a Sustainable Movement and Transport Strategy for the local area:

- Seek delivery of pedestrian and cycling routes through the developing area and adjoining neighbourhood that promote connection to important local destinations for local residents.
- Seek removal of barriers to permeable movement by walking and cycling and make recommendations and actions to remove barriers and improve permeability.
- Interconnect walking and cycling routes with access to a number of public transport locations to promote use and travel on the wider public transport network.
- Maximise and promote the extent and options for public transport interconnection within the wider locality to increase awareness of public transport route options (for example orbital route connections).
- Require that planning applications for new developments are accompanied with good quality cycle parking and storage facilities.
- Require that commercial, community and other mixed use developments are accompanied with a Mobility Management Plan that encourages greater use of sustainable travel options.
- Require that new developments in the developing lands of the LAP area, where the site context is appropriate, provide additional sections of the planned route network to improve local access and deliver connectivity.
- Ensure that appropriate sustainable densities of people and employees are encouraged and integrated into developments that are accessible to public transport infrastructure.

In order to implement an effective land use and transportation strategy that achieves the above stated aims, it is essential for the success of the LAP that the threshold of people and activity in the developing area is appropriate to sustain existing and

proposed public transport investment and other sustainable modes of travel in the long term.

Sustainable densities will help to ensure that public transport services can be supported and car dependant sprawling suburban character is avoided.

The by-pass of the R107/R139 junction was identified in the Action Area Plan in 2000 as a key infrastructural project. Congestion at this junction impacts on access and mobility for the wider area. It also creates a car dominated environment along the Malahide Road and creates severance between important land banks and locations (severance between the Northern Cross, Belmayne and Clare Hall Shopping Centre for example). The re-routing of traffic will enable more efficient vehicular movement between origin and destination points on the wider strategic road network, in particular traffic accessing the M50 corridor, airport zone and national motorway network. The re-alignment of the R139/R107 junction is critically important in (i) facilitating future developments within the LAP area and other lands served by the road network, (ii) improving public transport access and (iii) achieving sustainable local travel patterns in the LAP area.

It is important that the continuing development of the Key District Centres and viability for the public transport services anchoring them is not compromised by a lowering of density and reversion to predominant surface car parking. Basement car parks have an important role and benefit in the design process for such locations.

It is an objective (MTO2)

- To provide new patterns of pedestrian and cycle movement in both the east-west and north-south directions throughout the area that is coherent, direct, safe and convenient.
- To initiate a Local Smarter Travel Plan within years 1-2 and pursue its implementation taking into account the Sustainable Movement and Transport principles outlined in the LAP.
- To facilitate enhanced patronage and efficient utilisation of public transport and promote walking and cycling, through a range of means including a reduced provision of car parking for commercial development

- That the principles of urban design will drive future development in the North Fringe to achieve a high quality urban environment creating a neighbourhood where people will want to live, work and visit, now and in the future.

The LAP will ensure that a high sustainable mixed-use urban district, based around high quality public nodes with a strong sense of place is created. Good urban design not only adds value by increasing the economic viability of development, but also contributes to social and environmental regeneration. As a result, Dublin City Council is committed to raising the standard of design in the LAP area.

Good urban design principles provide quality urban spaces and are critical to how buildings are put together to shape & enliven the streets and civic spaces. High quality design is therefore expected from all developments in the LAP area.

There are two main nodes at either end of the Main Street, Malahide Road junction and the New Station Square. These two spaces have been identified as key district centres in the Dublin City Development Plan and form the core areas for retail and commercial activities, with objectives including:

- To promote developments that are integrated and connected with its surrounding environment and community. This facilitates ease of access, economy of movement and improved social.
- To promote pedestrian friendly streets through wide footpaths, street trees and interesting façade designs that adds interest along the streets in the LAP area.

Key Urban Design objectives (7.9)

- To achieve high quality and sustainable densities to consolidate the area, maximise access for residents and employees to public transport and successfully define important locations and routes including the Main Street access and town centres (KDC designated zones).
- The height strategy for the LAP will seek positive integration of new building height with established character. Locations identified for special height character are the designated Key District Centres (in general 5 storeys minimum) and the Main Street Boulevard axis (in general four to five storeys).

- Distinctive buildings should form gateways entrances to the new 'main street' (Malahide Road Stretch) at the northern end and the southern end of the Malahide Road, opposite the Hilton and Crossan Motors.
- Along the axis of the new main street, the existing wayleave along the Malahide Road edge presents an opportunity to create a high treelined urban boulevard with a quieter parallel street serving commercial developments. This will provide wide pavements in front of retail units, tree plantings, bicycle lanes, short term car parking and servicing etc as well as creating a sense of space utility services under footpaths should avoid disrupting the opportunity for tree planting.
- Commercial facilities such as local supermarkets, restaurants, cafes and public houses are encouraged in the town centre and main street locations to provide opportunities for local employment, for the community to meet, interact and socialise and to assist community development.

5.3. Retail Design Manual A companion document to the *Retail Planning Guidelines for Planning Authorities*, April 2012

To provide a planning framework for future development of the retail sector in a way which meets the needs of modern shopping formats while contributing to protecting, supporting and promoting the attractiveness and competitiveness of city and town centres as places to live, work, shop and visit. A high level of design quality can make an important contribution to the future health of city and town centres. Design that is inappropriate for its context, or that fails to realise the opportunity to improve the character and quality of an area or a site, should not be accepted.

High quality of design in retail development can make an important contribution to delivering quality in the built environment. The guide is set out as 10 principles with questions under each of the 10 headings: design quality, site and location, context and character, vitality and viability, access and connectivity, density and mixed use, public realm, built form, environmental responsibility and sustainable construction. The principles are intended to provide a framework for formulating policies in development plans and LAPs.

Under the heading density and mixed use the objective is for higher density and mixed use development creating compact urban areas and the efficient use of land; and the key questions to be considered in relation to development are: how does the proposal contribute to the optimum use of urban land, and the principles of sustainable development; how does it contribute to creating compact urban areas and reducing suburban sprawl; how does it contribute to the creation of a mixed- use urban environment in its location; how does it contribute to increasing urban density and the sustainable development of the location, and; how does it incorporate the appropriate regeneration of underutilised and predeveloped lands and sites?

5.4. Smarter Travel: A Sustainable Transport Future A New Transport Policy for Ireland 2009 – 2020

5.5. This document published by the Department of Transport is designed to show how we can reverse current unsustainable transport and travel patterns and reduce the health and environmental impacts of current trends and improve our quality of life. It sets out five key goals:

- (i) to reduce overall travel demand,
- (ii) to maximise the efficiency of the transport network,
- (iii) to reduce reliance on fossil fuels,
- (iv) to reduce transport emissions and
- (v) to improve accessibility to public transport.

It sets key targets for 2020:

- Future population and employment growth will predominantly take place in sustainable compact forms, which reduce the need to travel for employment and services;
- 500,000 more people will take alternative means to commute to work to the extent that the total share of car commuting will drop from 65% to 45%;

- Alternatives such as walking, cycling and public transport will be supported and provided to the extent that these will rise to 55% of total commuter journeys to work. The total kilometres travelled by the car fleet in 2020 will not increase significantly from current levels; and
- A reduction will be achieved on the 2005 figure for greenhouse gas emissions from the transport sector.

- 5.6. **Design Manual for Urban Roads and Streets, March 2013**, Department of Transport, Tourism and Sport and, Department of Environment, Community and Local Government
- 5.7. This document is intended to facilitate the implementation of policy on sustainable living by achieving a better balance between all modes of transport and road users. It recognises the importance of assigning higher priority to pedestrians and cyclists, without unduly compromising vehicle movement, in order to create secure, connected places that work for all members of the community. Walking and cycling will improve health and well-being and will provide greater opportunities for interaction which promotes neighbourliness and community growth. Streets should contribute to the creation of attractive and lively mixed-use places.
- 5.8. Among its objectives are: to encourage more people to choose to walk, cycle or use public transport by making the experience safer and more pleasant; to lower traffic speeds, reduce unnecessary car use and create a built environment that promotes healthy lifestyles and responds more sympathetically to the distinctive nature of individual communities and places.
- 5.9. The necessity of balancing the needs of Place and Movement is a fundamental aspect of the guide. Design must be: a) influenced by the type of place in which the street is located, and b) balance the needs of all users.
- 5.10. It refers to the LAP guidelines aimed at promoting compact, walkable communities and neighbourhoods where local people can continue to enjoy access to established community facilities by the utilisation of undeveloped brownfield sites and/or derelict lands in preference to peripheral car-dependent development; promoting smarter travel by encouraging/promoting development along existing public transport corridors and improving the pedestrian and cycling environment through better

infrastructure and, in particular, creating shorter routes to educational, retail, employment or other facilities; improving the public domain by providing active frontage to all public spaces and routes, thus promoting streets which encourage pedestrian activity and are safer by benefiting from passive surveillance; and the need to optimise areas of high accessibility to public transport in terms of density and intensity of use; promote shared, safe movement routes for all users and avoid duplication or separation of main movement routes; and which set out the general movement function of routes and spaces within the route hierarchy.

5.11. The Manual intends that street networks should be simpler in structure (more legible) with higher levels of connectivity (more permeable) thus reducing travels distances; that higher quality street environments will attract pedestrians and cyclists, promoting the use of more sustainable forms of transport; that self-regulating streets will manage driver behaviour and calm traffic, promoting safer streets; and that streets and junctions will be more compact, providing better value for money.

5.12. Place status will be elevated where densities and land use intensity is greater, resulting in higher activity level, in particular pedestrian activity.

5.13. Designing for streets which function as Places requires consideration of:

Connectivity - The creation of vibrant and active places requires pedestrian activity. This in turn requires walkable street networks that can be easily navigated and are well connected.

Enclosure - A sense of enclosure spatially defines streets and creates a more intimate and supervised environment. A sense of enclosure is achieved by orientating buildings toward the street and placing them along its edge. The use of street trees can also enhance the feeling of enclosure.

Active Edge - An active frontage enlivens the edge of the street creating a more interesting and engaging environment. An active frontage is achieved with frequent entrances and openings that ensure the street is overlooked and generate pedestrian activity as people come and go from buildings.

Pedestrian Activity/Facilities - The sense of intimacy, interest and overlooking that is created by a street that is enclosed and lined with active frontages enhances a pedestrian's feeling of security and well-being. Good pedestrian facilities (such as

wide footpaths and well-designed crossings) also make walking a more convenient and pleasurable experience that will further encourage pedestrian activity.

- 5.14. Active street edges provide passive surveillance of the street environment and promote pedestrian activity. Designers should seek to promote active street edges on all streets within cities, towns and villages; the most effective way to promote pedestrian activity is to place buildings in close proximity of the street with a high frequency of entrances and other openings.
- 5.15. These four characteristics represent the basic measures that should be established in order to create people friendly streets that facilitate more sustainable neighbourhoods.

5.16. **Natural Heritage Designations**

Baldoyle SAC (Site Code 000199) are located almost 3km from the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.2. GVA Planning have appealed the decision to grant permission, on behalf of Tesco Ireland Limited, the grounds includes:

The proposal does not accord with the zoning objective for the site as it does not provide a suitable mix of uses that will provide a benefit to the area.

The design and layout of the scheme does not accord with the potential of these lands to create an appropriate mixed-use centre on the entire site. This is due to lack of density and poor integration with the surrounding area.

The roads and traffic arrangements as proposed are not adequate for the needs of the overall site and may ultimately have an adverse impact on the Clarehall Shopping Centre, the residents of Clarehall Village and the Malahide Road.

The Board's previous concern re access: that the proposed development would intensify the use of a private access off a major traffic route at a location having a proliferation of such accesses in close proximity, and concerns about the effect of the intensification of use of the access on a bus lane and cycle lane, do not appear to have been addressed.

The Zoning : Z14 Strategic Development and Regeneration Area SDRA 1 North Fringe to seek the social, economic and physical development and/or rejuvenation of an area with mixed use, of which residential and Z6 would be the predominant uses. The site also forms part of the north fringe west Key District Centre.

In the Dublin City Development Plan DP 2016-2022, SDRA lands are lands which have the capacity for a substantial amount of development to be brought forward in a comprehensive manner having regard to the development principles set out in S16.3 of the Development Plan. Development principles for the North Fringe are cited:

- to create a highly sustainable mixed-use urban district based around high quality public transport nodes with a strong sense of place
- to achieve a sufficient density of development to sustain efficient public transport networks and a viable mix of uses and community facilities
- to establish a coherent urban structure based on urban design principles as a focus for a new community and its integration with the established community.
- to promote the creation of a high-quality public domain by establishing a high standard of design in architecture and landscape architecture.

The grounds examines the proposal and the expired permission 1158/07 against these requirements; finding the expired permission meets these standards and the proposed development does not.

As an urban design solution, building heights should be used to define landmark locations, the following applies to this KDC:

- minimum heights of 5 stories for the key district centre at Clongriffin rail station and the N32/Malahide Road junction.

It has been demonstrated previously that the subject lands have the capacity to accommodate a truly mixed use development that would accord with the development principles set out in the Development Plan for such key strategic sites. In its current form the application does not achieve the level of development appropriate for this strategic site. It is an inefficient use of the site and retains the issue of causing a traffic conflict with cyclists and public transport.

The previous reason for refusal re Z14 zoning is referred to.

Re. Design and Layout - the design should incorporate an appropriate mix of uses, similar to the expired permission: high quality design, best practice design principles, suitable access points and internal roads, landscaping and public spaces. The proposal will not produce the adequate mix the site has the capability to deliver. The applicant cannot rely on the extant permission related to the Fastfit unit to provide a more integrated development.

They question whether the nursing home part of the development will be delivered. They suggest that a condition should be attached to any permission requiring the construction and operational commencement of the convenience store and the nursing home at the same time. This would avoid the prolonged construction period and disruption to the Clarehall Shopping Centre and the residents of Clare Village.

If the overall land was developed at the same time, including the Fastfit site, it would maximise the use of the land and provide a more effective and visually favourable mixed use.

The proposed development is better than that previously refused, but they question the acceptability of the proposal and state that the application does not provide a sufficient variety of uses.

Re. density - the proposed two storey convenience store with limited second floor is insufficiently dense. The Development Plan states the expectation of 5 storeys. Either a revised proposal should be submitted or permission refused.

Report of the Roads and Traffic Division did not give adequate consideration to their observation.

They refer to the Boards previous decision.

The refer to individual items in that decision.

Intensity of use of private access; previous studies undertaken at this site, and the stopping distance for a vehicle travelling at 60kph is 90m and that there are 4 entrance/exits located along this c250m stretch of the Malahide Road, they are concerned that the sightlines combined with traffic entering and exiting the sites at this location could lead to traffic conflicts.

The reduction in the number of entrances has not resolved the problem. It is the intensity of the use and the number of cars entering the site and using the mini roundabout, which could lead to queuing stretching back onto Malahide Road, that is of concern.

Spatial Planning and National Roads notes in transitional areas 60-50kph, the proliferation of such entrances, which would lead to a diminution in the role of such zones, must be avoided. S1.6 allows for the standard to apply to non-national roads. They question the detail provided as part of the road safety audit.

Queueing back onto Malahide Road: cars entering and exiting create an undue risk to cyclists and public transport vehicles. This was a concern of the previous decision and has not been adequately addressed. They question if an alternative access from another road such as the road to the east could be provided. This would resolve traffic issues and proliferation of private access points on the Malahide Road, a major arterial route into the city centre.

The Board should consider how this development may have adverse impact on the re-alignment of the Malahide Road.

Re. quantum of car parking. The proposed 126 spaces is insufficient and especially when compared to the c166 no. spaces, per CDP requirements; the 24% shortfall has not been explained. Parking should be in accordance with CDP.

The Board is requested to consider the negative effects that would arise from the granting of this application without it providing greater integration with the surrounding area.

6.3. First Party Appeal

- 6.4. Brock McClure, planning consultants, have made an appeal on behalf of the first party against condition no 4(e).
- 6.5. The grounds of appeal includes submissions in support of the application, including:
- 6.6. Permission 223995 has expired and the non-viability of that scheme represents continued under-utilisation and dereliction of the site.
- 6.7. The Retail Design Manual and the Design Manual for Urban Roads and Streets are referred to as having influenced the design of the scheme.
- 6.8. The proposed development has been designed to factor in all previous planning issues associated with previous development proposals and specifically with reference to those reasons for refusal issued under Reg. Reg 3758/14, PL 29N.244821. The current application is an attempt to provide for a more appropriate retail offer, a more commercially viable scheme and a scheme that is ready for delivery by the applicant on site.
- 6.9. The access junction has been designed as a left in left out junction with the result that southbound traffic only will be allowed to access the site.
- 6.10. This results in less impact on the operation of traffic on the Malahide Road. The entrances to the retail unit and the nursing home have also been merged to reduce the number of access points to the main road and instead managing the distribution of traffic within the site via a roundabout.

- 6.11. The Planning Authority report is cited.
- 6.12. The planning authority Roads and Traffic Planning Department reviewed the proposed development and referred to the interface with the Malahide Road. The report refers to the TA as having examined the proposed development/ Malahide Road junction priority controlled T junction which has been designed as a left in/left out junction. The analysis clearly demonstrates that the proposed development priority controlled junction is predicted to operate well within capacity. The predicted results also show that the proposed development junction with the Malahide Road will have a negligible impact on the capacity of the bus corridor and will not unduly impact on cyclists.
- 6.13. The Board's previous refusal have been adequately addressed.
- 6.14. The Punch Consulting report is cited. The previous refusal in relation to the appropriateness of the proposed use are addressed by:

- appropriate separation distances which exceed 22m; 36m in total, is provided between the development and the existing residential development to the south. A key objective of the current scheme is to protect all existing and proposed levels of residential amenity.
- noise assessment – loading and unloading of delivery vehicles would not create noise levels above acceptable standards.
- orientation such that there is no overshadowing.
- the convenience retail unit has been re-orientated away from the existing residential area, the loading bay is further away and the ventilation and extraction issues are no longer matters of concern.
- sealed elevations to the Malahide Road create a strong profile to the streetscape. There are proposals for a winter garden structure to the west.

The proposal provides a secure and private environment and design is no longer an issue.

- 6.15. Condition 4(e) requires that no deliveries shall take place between 2100hrs and 0800 hrs. this is logistically problematic, particularly the am delivery time, and unnecessary. The opening hours are 0730am to 22.00pm, (condition 4(f)), the majority of deliveries need to take place outside of these hours when the number of

customers are lower. A more appropriate delivery time of 0600-2200 should be permitted.

6.16. Precedent is cited - 247126 - Greystones – 0600 – 2200 set for deliveries (Ref 166177).

6.17. A noise report by Decibel Noise Control is attached to grounds. Also a memorandum from Punch Consulting Engineers on traffic.

6.18. Planning Authority Response

6.19. The Planning Authority has not responded to the grounds of appeal.

6.20. First Party Response

6.21. The First Party has responded to the Third Party grounds of appeal, which includes:

6.22. There are a number of existing access points to/from the site along the Malahide Road: at the one way entrance and exit points of the service station, the entrance / exit point to Fastfit, entrance /exit point to the former car showroom and a closed access point to the disused car park.

6.23. The current composition of retailers in the vicinity of the subject site is listed, and they submit that there are gaps in the retail offer. Aldi, the tenant for the store, consider that this area is under-represented in terms of the provision of a medium - sized convenience foodstore, sectoral competition and consumer choice. There is clearly a growing demand for retailers such as Aldi and Lidl, as shown by their growing market share; 9.1% at the time of publication of the Retail Planning Guidelines (2012) and recent data showing 16.8% market share.

6.24. The response to the grounds is set out under the headings: conflict with zoning objectives, design and layout and parking / traffic.

6.25. Conflict with zoning objectives – the development provides for 11,394 sq m which is a considerable increase on the existing 1,556 sq m. This is sufficient to ensure maximisation of public transport network, in conjunction with the mix of uses proposed. No overlooking arises. There is no noise impact.

6.26. The reduced scale addresses previous reason for refusal. Traffic conflict on Malahide Road has been addressed.

- 6.27. Design and Layout – a wide range of uses have been incorporated; the design and layout suits the uses, the site and surrounding area. The nursing home is a viable land use.
- 6.28. Higher buildings adjacent to existing apartments would be inappropriate.
- 6.29. Parking and Traffic – the shared entrance, left in left out addresses the Boards previous refusal reason. There are currently 7 entrances, the proposed development will result in a reduction in entrances.
- 6.30. The planning authority Roads and Traffic Planning Department report reviewing the development is again cited.
- 6.31. Regarding the claim that there is a shortfall of 24% in car parking spaces, the development plan standards are maximum standards. The number proposed is adequate, particularly in light of the public transport available in the vicinity.

7.0 **Assessment**

7.1. There are two appeals in this case a third party appeal against the decision to grant permission and a First Party Appeal against a condition. The issues which arise in relation to these appeals are appropriate assessment, planning policy and urban design, residential amenity, traffic safety, retail impact, condition 4(e) and other issues, and this assessment is addressed under those headings.

7.2. **Appropriate Assessment**

7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

7.3. **Planning Policy and Urban Design**

7.4. The first thing to note is that this site is an underutilised and partly derelict site on the side of a busy dual carriageway. It is also a very important site, which has been identified as part of a Key District Centre, within a strategic regeneration area where it will occupy c205m of street frontage along the new Main Street.

- 7.5. Planning policy for the area is set out in some detail in the Local Area Plan 2013 and the City Development Plan 2016, as referenced earlier in this report.
- 7.6. This new Main Street is intended to be a place where the community will mix and mingle, with active frontages and a high frequency of entrances and other openings; where a mixture of uses and community facilities will be provided; where development will be high density to facilitate public transport; and of five to six storeys height to provide a sense of enclosure to the street (greater heights, mid-rise (up to 50m) buildings, is referred to in the City Development Plan as applying to limited number of areas of the city the subject of a local area plan, strategic development zone or within a designated SDRA which will help provide a new urban identity). Basement parking will be provided, controlled by maximum rather than minimum standards and there will be permeability through a development and linkages to adjoining areas for pedestrians and cyclists.
- 7.7. The proposed development is designed around vehicular access, for deliveries to the retail store and nursing home and to the car parking areas.
- 7.8. The road fronting this site is currently a busy dual carriageway and will remain so pending the implementation of the by-pass of the R107/R139 junction, which is identified as a key infrastructural project. Planning policy, as set out clearly in both the LAP and the City Development Plan demands that this area be developed as a street.
- 7.9. The proposed development does not achieve either the required height or the density expected from this important Main Street location. The portion comprising the nursing home achieves the required height but it does not provide an active frontage. The remainder of the development is low rise, low density development and a large part of the frontage between the nursing home and the retail store is comprised of vehicular access and surface parking. Basement parking (recommended in the LAP) is not provided, parking is provided as surface parking or undercroft parking. Surface parking underutilises land and does not provide the density or urban design character required. Undercroft parking is undesirable because it creates inactive frontage and does not address the building's surroundings in a positive manner. The LAP states that the continuing development of the Key District Centres and viability for the public transport services anchoring them should not be compromised by a

lowering of density and reversion to predominant surface car parking; and that basement car parks have an important role and benefit in the design process for such locations.

- 7.10. The proposed development does not provide an active frontage. Pedestrian activity is confined to an entrance via a travelator to the retail store (the second entrance is a fire exit), an entrance to the café/restaurant, and a pathway along the vehicular entrance.
- 7.11. The proposed development achieves limited permeability through the site and very limited connectivity with other areas. Two pedestrian entrances are indicated to the east of the retail store; the eastern boundary is otherwise to be formed by: boundary railings with low walls and piers, 1.2m high boundary railings, and a 2m high brick wall and piers.
- 7.12. The isolated blocks, as proposed, would allow for but not encourage pedestrian links through the site.
- 7.13. The proposed development is required to provide sustainable mixed use with a strong sense of place. Having regard to the size of the site the mix of uses proposed is limited and although the nursing home would provide a landmark building the overall development would not create a strong sense of place. Neither would it establish a coherent urban structure, based on urban design principles. This site will form part of the new Main Street of the KDC and as proposed it would not adequately fulfil that function.
- 7.14. **Residential Amenity**
- 7.15. There is considerable emphasis in the design of the proposed development and in the planning authority's assessment, on residential amenity. The proposal demonstrates that there will be no adverse impact on the residential amenities of adjoining properties from overlooking, overshadowing or noise.
- 7.16. It should be noted that the specific density, height and mix of uses required for this site and the other urban design requirements will help to create a town centre which is functional, attractive and sustainable and which, notwithstanding any impact in terms of overshadowing or noise, would contribute positively to the amenities of the area.

7.17. Traffic Safety

7.18. As previously stated, the proposed development has been designed to respond to the context of the existing road layout where the road along the frontage is a busy dual carriageway. The proposed development reduces the number of vehicular access points. Having regard to the use as existing filling station of part of the site the proposed development will not create an adverse traffic impact from any additional HGV or other traffic generated.

7.19. There will be no conflict with the proposed realignment of the R107 Malahide Road in terms of vehicular traffic.

7.20. The creation of a Main Street along this site, with the focus on pedestrians, will only be achieved with the implementation of the by-pass of the R107/R139. However there is no reason why this site should not be developed as if the road in front was a street. As it currently stands it is an opportunity site. If developed as proposed, the opportunity to create a Main Street along urban design principles would be lost and the development would become a barrier to the achievement of the objectives for the built form of the District Centre, as set out in the LAP and City Development Plan.

7.21. Retail Impact

7.22. Retail impact has been addressed in detail in the planning authority's assessment of the application. I am satisfied that this is a centre into which retailing is to be directed and that there is capacity for the quantum of retailing proposed. I am satisfied that there is some merit in the argument that the typical offer of the proposed operator will complement the existing retail provision. I am also satisfied that the part off-licence complies with the planning authority's policies.

7.23. The LAP states that commercial facilities such as local supermarkets, restaurants, cafes and public houses are encouraged in the town centre and main street locations to provide opportunities for local employment, for the community to meet, interact and socialise and to assist community development.

7.24. I would draw the Board's attention to the fact that a finite amount of retail floorspace can be developed, even in a centre which is identified for such use. Retailing is a very important function of a town / district centre and generates a significant amount of pedestrian activity, which can contribute very significantly to the vitality of the centre. Retail provision cannot be considered in isolation to the functions performed

by a town centre, and the importance of a town centre within a community. Retailing's potentially important contribution to place-making, in securing the attributes of functionality, attractiveness and sustainability, which the detailed urban design objectives as set out in the LAP and City Development Plan, are intended to achieve for this area, must be taken into consideration. It important that such a quantum of retail provision should contribute to the achievement of these objectives.

7.25. Although the site has been vacant and derelict for some time, the LAP acknowledges that these objectives are longer term. This is a key site where retail use is acceptable in principle together with other uses to provide a mixed use town centre. The development as proposed falls so far short of the detailed objectives this key site is required to achieve, as to not accord with the proper planning and sustainable development of the area. For this reason and the various other concerns in the foregoing assessment it is considered that planning permission should be refused.

7.26. **Condition 4(e)**

7.27. The first party appeal is against condition 4(e) the delivery hours: that no deliveries shall take place between 2100hrs and 0800 hrs.

7.28. The Stage 1 Road Safety Report submitted with the application states that as part of the audit brief the Audit Team were informed by the Design Team that all deliveries for the retail unit, cafe/restaurant, nursing home and retail/workshop will be carried out outside the working hours.

8.0 The Board's attention is drawn to engineering drawing number 152346-AT01 (Rev PLO) which shows the autotrack for a HGV articulated vehicle servicing the retail store. The need for HGV's to reverse to unload within the site should be noted, the reversing takes place on the main access road for cars. This manoeuvre would be unsafe and inappropriate if cars were using the road, i.e. during store opening hours.

8.1. Should the Board be minded to grant permission condition no. 4(e), should not be attached, rather a condition should state that all HGV deliveries be carried out outside store opening hours.

8.2. **Other Issues**

- 8.3. No site investigation was carried out regarding the soil on site but having regard to current use of part of the site as a filling station the potential for encountering contaminated soil must be considered. This is referred to in the Waste Regulation Section, Waste Management Division report and in condition 11(c) of the planning authority's decision. Should the Board be minded to grant permission, a similar condition should be attached.

9.0 Recommendation

- 9.1. In the light of the above assessment, I recommend that planning be refused for the following reason:

Having regard to the location of the site in an area zoned Key District Centre, which is to be a strong spatial hub, providing sustainable city living and good urban place making, with a comprehensive range of commercial and community services; and where there are specific requirements in relation to active frontages, height, density, permeability and connectivity as set out in the Dublin City Development Plan, 2016-2022 and the Clongriffin – Belmayne Local Area Plan 2012 – 2018; it is considered that the proposed development would not achieve the objectives for this area, would be a barrier to their achievement, and would accordingly be contrary to the proper planning and sustainable development of the area.

Planning Inspector

25th May 2017

Appendices

- 1 Photographs
- 2 Extracts from the Dublin City Development Plan 2016-2022
- 3 Extracts from the Clongriffin – Belmayne Local Area Plan 2012 – 2018