



An  
Bord  
Pleanála

## Inspector's Report PL06S.248776.

### Development

Nursing home, new vehicular entrance from Monastery Park, 29 parking spaces, communal open space, demolition of house, refuse storage and an ESB station.

### Location

Lexington House, junction of Monastery Road and Monastery Park, Clondalkin, Dublin 22.

### Planning Authority

South Dublin County Council.

### Planning Authority Reg. Ref.

SD17A/0007.

### Applicant

GN Lexington Property Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Permission with conditions.

### Type of Appeal

First and Third Party

### Appellants

1. GN Lexington Property Ltd
2. Richard and Rosaleen Russell.
3. Friars Walk Local Residents.
4. Monastery Estate Residents

Association.

5. Donal Hudson

6. Monica McGill and Others.

**Observer(s)**

Pamela Stagg and Others

Ronan Duffy and Others

**Date of Site Inspection**

23th October 2017.

**Inspector**

Derek Daly.

## 1.0 Site Location and Description

- 1.1. The proposed development is located in the Clondalkin area of County Dublin in an established built up area to the east of the main street. The site has frontage onto Monastery Road, a major traffic route linking Clondalkin village to the M7/M50, which defines the eastern section of the southern boundary and Monastery Park a road serving residential development and which defines the site's eastern boundary. The remainder of the southern boundary is to the rear of Clondalkin library a very distinctive two storied building partially brick, render and stone with distinctive vertical and horizontal banding of brick. There is also a striking tower feature at the eastern end of the elevation. To the west of the library are two storied semi-detached dwellings.
- 1.2. The western and northern boundaries adjoin residential development on the western boundary comprising of a dwelling at 6 Monastery road where the appeal site adjoins part of the side boundary and four dwellings on Castle Park where the appeal site adjoins their rear boundaries. The northern boundary adjoins the side boundary of 1 Friary Park. Along these boundaries the boundary is defined largely by walls of varying widths and finishes and there are also trees and other vegetation along and adjoining these boundaries.
- 1.3. On the site is a two storied dwelling with extensive open space in particular to the north. A metal fence defines the eastern boundary of the site and there are many mature trees along the boundaries of the site. The site is level.
- 1.4. In the wider area residential development is the predominant use but other uses also occur in particular as one approaches the main street of Clondalkin.
- 1.5. The site which is roughly rectangular in configuration has a stated area of 0.4464 hectares.

## 2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority on the 12<sup>th</sup> of January 2017 provided for the following;
  - 2.1.1. A nursing home facility incorporating;

- The demolition of house of the detached two storied house on the site with a stated area of 213m<sup>2</sup>;
- The construction of a building part single storey, part two storey and part three storey over part basement. The building which is detached is located to the rear of the library is mainly U shaped in configuration facing south, east and north with an internal open courtyard area on the inner edge of the U shaped building footprint. There is also an annexe located to the southeast.

The building is of a modern design and construction with a flat roof with the main entrance and orientation of the building towards Monastery Park. The overall mass is broken up by the use of different heights and levels and to use the varying heights to transition from the existing adjoining development into the core of the proposed development. the design provides for a mix of horizontal banding and canopies with sections of vertical emphasis. A mix of render, stone and zinc finishes are proposed.

The basement area serves a food preparation area with plant rooms and laundry also located at this level.

- The gross floor area of proposed development is 3,982m<sup>2</sup>.
- The facility has 87 bedrooms with 92 bed spaces;
- A new vehicular entrance from Monastery Park, which it is indicated will be the main public access and the widening of the existing entrance onto Monastery Road which is located immediately to the east of the public library building and will be used for deliveries and refuse trucks;
- 29 parking spaces located in three areas; three spaces immediately to the east of the Monastery Road (existing) entrance; seven spaces behind the library building and the remainder along the eastern boundary adjoining Monastery Park with provision for two disabled spaces and an ambulance set down area. There is provision for a cycle parking area in the southeastern corner of the site.
- A detached gardening shed located in the northwestern corner of the site single storied with a pitch roof;

- The provision of a landscaped communal open space with provision for roof terraces at first and second floors of the facility facing south towards Monastery Road and another terrace at first floor level facing towards Monastery Park,
- The construction of a refuse storage enclosure with a flat roof located in the southwestern corner of the site to the rear of the library and adjoining the common boundary with a residential property fronting onto Monastery Road and
- an ESB sub station which adjoins the refuse storage enclosure.

In addition to the drawings and particulars the documentation submitted also included a planning submission; a design statement; a conservation and building conservation report; a services drainage report; a landscape; an arboricultural report; a traffic impact assessment and an archaeological impact assessment.

It is proposed to connect to existing piped services.

- 2.2. Further information was submitted to the planning authority on the 19<sup>th</sup> of May 2017 including the following;
- 2.2.1. The revised proposals amend the design and finishes with the creation of a visual setting back of the third floor level by increasing the footprint of the ground and first floor levels and an increase in the floor area of the buildings. There are amendments to the fenestration by the reduction of the overall size of the windows and increased use of zinc at the upper level. There is also an increased vertical emphasis in the overall design and incorporation of a parapet. Brick is also incorporated on the elevation onto Monastery Road which it is considered addresses the relationship of the proposed development with the library and area generally.
- 2.2.2. The issues of separation distances with properties to the west, overshadowing and amenity space within the property are referred to and it is considered that issues do not arise.
- 2.2.3. A report in relation to the impact of the basement construction is submitted indicating no adverse impacts.
- 2.2.4. Revised details are submitted in relation the entrance lowering boundaries to sightline visibility.

- 2.2.5. Parking spaces are reduced to 23 car parking spaces to comply with the SDCDP standards and requirements, the staff bicycle parking area is relocated and there is provision for visitor bicycle parking. 18 spaces are provided in the northeastern area of the site and are visitor spaces and 5 staff spaces are located in a location at the southwestern corner of the site to the north of the library. The staff bicycle parking is also located in this area.
- 2.2.6. Revised landscaping details including the relocation of the gardening shed away from trees on the site to a location adjoining the northern boundary.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The decision of the planning authority was to grant planning permission subject to 22 conditions. I would refer to the following;

- Condition no. 2 requires the omission of the first floor dining room adjacent to the boundary with 6 Monastery Road.
- Condition no 5 refers to the boundary treatment of the site adjacent to the library.
- Condition no 9 refers to a travel workplace plan.
- Condition no 12 refers to agreement on a detailed landscape and boundary treatment plan.
- Condition no 19 refers to the carrying out of a bat survey.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The planning report dated the 6<sup>th</sup> of March 2017 refer to;

- The planning history.
- The provisions of the development plan.
- An assessment under a number of issues identified.

- The principle of the development is accepted.
- Issues are raised in relation to the overbearing impact of the development on the area and properties in the vicinity in relation to height, scale and mass and domination on the streetscape and adjoining protected structure.
- Reference is made to the excessive overshadowing of the internal courtyard and need for greater consideration of the amenity of the nursing home residents and impact on adjoining residents to the west in relation to overshadowing.
- Parking provided exceeds plan requirements.
- The need for revised landscaping of the site.
- Further information was recommended.

The planning report dated the 19<sup>th</sup> of June 2017 considered the proposal in the context of the further information;

- The report notes that the further information goes some way in addressing the concerns of the planning authority.
- Concern is still expressed in relation to the scale of the development in proximity to 6 Monastery Road and omission of the first floor adjacent to the boundary is recommended
- Permission was recommended.

### 3.2.2. Other Technical Reports.

Environment services report dated 2<sup>nd</sup> of February 2017 indicates no objections.

The water services planning report dated the 13<sup>th</sup> of February 2017 in relation to surface water indicates no objections.

The environmental health department in a submission dated the 15<sup>th</sup> of February 2017 indicates no objections.

The roads report dated the 23<sup>rd</sup> of February 2017 requests a revised layout replacing the designated ambulance space with a parking space; the provision of additional parking; clear demarcation of visitor parking; information relating to the entrance and submit information on visibility splays. Further information was recommended.

The conservation officer report dated the 2<sup>nd</sup> of March 2017 refers to the absence of an assessment on the impact of the basement on the protected structure; concerns in relation to the impact of the three storey element of the proposed development on the protected structure, a reconsideration of the external finishes proposed as there is an absence of sympathy with the protected structure and a redesign was necessary.

The landscape open space and public realm department report dated the 3<sup>rd</sup> of March 2017 raises issues in relation to the location of the proposed shed and its impact on preserving trees on the site. Further information was recommended.

The conservation officer report dated the 2<sup>nd</sup> of June 2017 in relation to the further information submitted considers that the revised proposals greatly improve the overall visual aesthetics and recommends conditions to be attached to a grant of permission in relation to boundary finishes and colour of the rendered elements of the proposed building.

The roads report dated the 6<sup>th</sup> of June 2017 indicated no objections subject to conditions being included.

### **3.3. Prescribed Bodies**

Irish Water in a submission dated the 14<sup>th</sup> of February 2017 indicates no objections but outlines a number of requirements to be submitted.

### **3.4. Third Party Observations**

A number of submissions were received in relation to the initial submission and the further information submitted and reference is made to the scale of the development, impact on residential and area amenities, traffic, parking, overlooking overshadowing. Impact on natural and built heritage, impact on current inadequate drainage services in the area and open space provision.

## **4.0 Planning History**

ABP Ref. No. PL06S.206949/PA Ref. No S04A/0122.



Permission refused for the demolition of existing house and the construction of a residential development comprising of 37 units in three blocks providing for apartments and duplex units on grounds of density, design, site coverage, loss of trees and in general substandard development.

Similar previous proposals on the site were also refused.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1. The operative plan is the South County Dublin Development Plan 2016-2022.

The site is located within an area zoned RES with the objective “to protect and/or improve residential amenities”.

5.1.2. Nursing homes and housing for elderly persons is a permitted use.

5.1.3. There is specific provision in relation to the housing of older people in the development plan specifically in section 2.1.2 with a housing policy H3 supporting the provision of accommodation for older people and also a similar objective HS1.

5.1.4. Section 3.13 refers to open space management and use. Relevant policies include C12 in relation to open space

5.1.5. Section 6.5 refers to elderly persons

5.1.6. Building heights are referred to in section 2.2.3 with requirements to respect existing heights and I would refer to H9 objectives 1, 2 and 3 in this regard.

5.1.7. Parking is referred to in section 6.6.4.

5.1.8. Section 11.2.1 refers to the submission of design statements.

5.1.9. Section 11.4 refers to parking standards and requirements for cycles are set out in table 11.22 and for vehicles in table 11.23. in relation to vehicular parking for the current site the requirement is 1 space per 4 residents given its location.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

### 6.2. First Party

6.2.1. GN Lexington Property Ltd c/o Jim Brogan Planning and Development Consultant in a submission dated the 10<sup>th</sup> of July 2017 refers to;

- The appeal relates to condition nos 2 and 19 of the planning authority's decision to grant planning permission and to omit the subject conditions in a grant of planning permission.
- Condition no 2 relates to a revision of the development to omit the first floor element containing a dining room at the western boundary adjacent to 6 Monastery Road be omitted and submission of a revised floor plan indicating an alternative dining area of any consequent amendments to layout.
- It is contended that the development as proposed would not cause injury to the residential amenities of 6 Monastery Road and the condition is unnecessary.
- The dining room is to provide dining facilities at first floor level to residents on that floor and follows a similar layout to the ground floor and this from an operation perspective is the optimal arrangement for the delivery of food from the kitchen in the basement to the various serveries to the dining rooms.
- To meet the requirements of the condition would have major operational consequences and loss of bedrooms.
- There are no windows and no overlooking.
- Reference is made to the height of the building c7.2 metres and separation from the common boundary of between 2 and 3.6 metres.
- The gardens of the adjoining properties have depth of 23m to 24m and the dining room which is approximately 13.6m in length will only run along a limited section of the boundary.
- Landscaping can be undertaken to further moderate any impact.

- In relation to overshadowing it is acknowledged that overshadowing occurs but it is of a limited duration and area affected.
- Condition no .19 relates to the requirement to carry out a bat survey.
- There is no prima facia evidence that bats roost or forage on the site and the condition is unreasonable.
- There was no reference to bats other than in a third party submission and no reference in the initial report or request for further information.
- Bat presence or usage has never arisen in previous applications.
- There are no grounds to include this condition based on the evidence submitted and based on the documentation on the file.

### 6.3. Third Party.

6.3.1. **Richard and Rosaleen Russell** in a submission dated the 23<sup>rd</sup> of June 2017 refer to;

- The appellants reside to the west of the proposed development.
- No change to the height or density as requested by way of further information in the development was made.
- Previous refusals on the site were made because of height and density.
- There is no difference in the height in the levels of the lands on the appeal site and properties to the west.
- There is direct intrusion on their privacy arising from the development.
- Concerns are raised in relation to traffic and piped services.
- Concerns are raised in relation to impact on daylighting.
- The appellants would request a wall rather than evergreen hedgerow.

6.3.2. **Friars Walk Local Residents** in a submission dated the 9<sup>th</sup> of July 2017 refer to;

- The residents live in a small cul de sac to the north of the appeal site, which is part of an established residential community.
- The applicant has made no attempt to address concerns in relation to the development.

- No attempt has been made to address overshadowing, insufficient car parking or the height, size and density of the development.
- There is no objection to the development of the site vacant for many years.
- The proposal is visually oppressive, not in keeping with the area and adjoins a protected structure. The building will dwarf buildings in the vicinity and should be reduced to two stories. It will impact on existing dwelling and give rise to overshadowing.
- The parking provision is inadequate in the context of providing 29 spaces for a facility of 92 beds.
- The development will give rise to illegal parking in adjoining residential estates.
- The new entrance onto gives rise to traffic concerns arising from the additional traffic movements generated.
- The development will impact on the residents of 1 Friary Walk in relation to loss of privacy and should be reconfigured way from this property.
- Reference is made to the construction of a new surface water sewer over green spaces and the disruption which will arise.
- The character of the area will change arising from the construction of a large commercial entity in a residential area.
- Issues arise in relation to disposal of medical and residential waste.
- There is no clear indicated of how it is proposed to address the presence of Japanese Knotwood on the site.
- Photographs in support of the issues raised are submitted.

6.3.3. **Monastery Estate Residents Association (MERA)** in a submission refer to;

- There were issues raised by MERA not addressed by the planning authority.
- A proposal for a nursing home on the site is welcome but there is concern in relation to size of the development and impact on the local residential area.
- Reference is made to the impact on adjacent residential buildings during the construction of the basement area of 363m<sup>2</sup>.

- No assurances were made to local residents in this regard only the library was addressed.
- Reference is made to the proximity of limestone bedrock to the surface and the impact of the removal of this rock to construct the basement.
- Additional protection by condition is required to safeguard residential properties
- There are current problems in relation to the sewerage network in the area in relation to capacity and the proposal will add to the capacity issues. There are also issues in relation to water supply.
- There is a shortfall in relation to the provision of parking on the site. Clondalkin is not served by a QBC and the Luas is 1.5 kilometres distant.
- There is illegal parking in the area and reference is made to traffic congestion at a nursing home arising from lack of parking.
- There is no provision for parking of electric cars.
- Issues of overshadowing and daylighting arise in relation to adjoining residents but also in relation to the residents of the facility.
- The scale of the proposal should be reduced.

6.3.4. AKM Design in behalf of **Donal Hudson** in a submission dated the 11<sup>th</sup> of July 2017 refers to;

- The appellant resides at 6 Bettyford adjoining the appeal site.
- The appellant raises concern in relation to impact on residential amenity in particular overlooking arising from direct overlooking from upper floor windows and a roof garden of the appellant's property; overshadowing and impact on privacy.
- Issues are raised in relation to overdevelopment of the site and the scale of the basement area and that the scale of the development should be reduced.
- The functionality of the car parking spaces provided is questioned.

- Issues in relation to noise and odour nuisance raised given the proximity of the development to his property and the waste storage area should be moved from his property.
- The ESB substation is located too close to the appellant's home and is 3.5 metres from his home and ESB standards recommends a minimum of 5 metres.
- The Board is requested to refuse the proposed development but if the Board are considering a grant of planning permission the Board are requested to relocate the bin storage area, relocate the ESB substation, reduce the footprint of the building and increase the reduction specified in condition no. 2.
- The development will have an adverse visual impact on the area and on the library.
- There is a need for nursing homes but the amenities of the appellant should not be disregarded.

6.3.5. **Monica Mc Gill and others** in a submission dated the 10<sup>th</sup> of July 2017 refers to;

- Reference is made to the appeal site and that any development of the site will have a visual impact on the area.
- Reference is made to previous refusals on the site and the issue of visual amenities.
- The current proposal is also unsuitable because of its density, design, mass and elevational treatment.
- The area is predominantly two storey.
- There are problems in relation to surface water and sewer capacity in the area.
- The design of the development is not sympathetic to its surroundings in particular the library.
- There is insufficient car parking on the site and in the area.
- Is there a need for another nursing home facility in the area?

- There is no assessment of the natural habitat with reference to bats and the removal of trees and natural features. The trees on the site should be retained.
- The site has been a passive open space for a number of years.
- Reference is made to Japanese knotwood and the implications for the spread of this species.
- Problems in relation to drainage have arisen over the years and continue. The proposal will add to problems currently occurring in the area.
- Works to address problems in the network will have impacts on nearby properties.
- The development works which include extensive basement construction may impact on the library, which is a protected structure.
- Reference is made to the impact of the development on the ACA for Clondalkin.
- The decision of the planning authority fails to protect the natural and built heritage of the area.
- Issues are raised in relation to the provision of a satisfactory supply of potable water.
- The impact on the overall character of the area and Clondalkin village is raised.
- The proposed access is unsuitable and poses dangers to pedestrians and road users.
- Issues of noise, light and area pollution for nearby residents are raised.
- The design is unfriendly and in effect turns its back on the community.

#### 6.4. Applicant Response

- 6.4.1. The **applicant** c/o Jim Brogan Planning and Development Consultant in a response dated the 25<sup>th</sup> of July 2017 to **the appeal by Richard and Rosaleen Russell** refers to;

- This response refers specifically to matters which relate to the appellants' property.
- The existing levels of the appeal site and the appellant's site are roughly the same but proposed development's ground level will be one metre below the level of their garden which will moderate the impact.
- In relation to overlooking the western boundary of the proposed development faces the appellants' property. There are 12 windows on the western elevation at first and second floor levels and they primarily overlook the area of private open space laid out as a courtyard. The windows are 22.4 metres from the boundary of 3 Castle Park and the clearance to the rear of the property is 61.5 metres. The clearance is way above the standard of 22 metres.
- There are 2 windows at second floor level in the western elevation of the northern and southern wings and they would be 18 metres from the boundary and 50 metres from the rear of houses on Castle Park. They service circulation corridors and can be conditioned to be glazed in obscure glass.
- In relation to overshadowing information submitted indicates the level of overshadowing and its extent will have no material adverse impact on the property on 3 Castle Park.
- It is proposed to retain the existing wall and plant an evergreen hedgerow there is no need to construct a 2 metre high wall.

6.4.2. The **applicant** c/o Jim Brogan Planning and Development Consultant in a response dated the 8<sup>th</sup> of August 2017 to **the other third party appeals** refers to;

- The response also includes complementary submissions relating traffic, parking, structural matters and infrastructural services.
- There is recognition of a need for nursing home services and the proposed development is a state of the art nursing home and will represent a very significant positive addition to the residential community of the area.
- It is consistent with the zoning objective of the area.
- The site is in the applicant's ownership and is not contained in the ownership of any third party.



- Reference is to the planning history and that these informed the preparation of the current proposal.
- The main issues raised in the grounds of appeal are addressed.

The proposed use.

- The proposed use is a permitted use in the current County Development Plan.
- The site is an optimum location for the use in the context of the area; there is a shortage of nursing home facilities in the area and adds to the residential community infrastructure of the wider Clondalkin area.

Height.

- There is a move towards more compact and sustainable forms of residential development.
- The County plan requires where higher buildings are proposed that they are supported by a design rationale as referred to in section 11.2.7 of the plan.
- Concerns raised in particular in relation to the relationship to the library were addressed in particular in the revised proposal submitted by way of further information and is consistent with guidelines set out in the SDCDP.
- There are significant clearances from the roads, boundaries and library.

Protected Structure.

- The protection of the setting of the library were critical issues in the preparation of the proposed development.
- Modifications were made to address matters raised by the conservation officer and these were acceptable. The applicant has no to conditions outlined in the decision of the planning authority relating to the conservation officer's requirements in condition nos 13 to 17 of the PA decision.

Knotweed

- The applicant is conscious of the threat of knotweed and has no objection to condition no 20 of the PA decision.

Mass and Scale of the Building.

- There are economies of scale and commercial considerations with regard to its viability which have a critical bearing on the overall size of the development in addition to mandatory operational standards.
- It must be an integrated facility.
- The proposal will sit comfortably with its neighbours and could not be considered a visually oppressive structure.

#### Architectural Conservation Area.

- The site is quite some distance from the Clondalkin ACA.

#### Overshadowing.

- The issue was addressed and the development will not have any serious material impact.

#### Friars Walk Residents.

- Reference is made to the design of the proposal which will be two storied in proximity to 1 Friars Walk, there will be a clearance of 7.6 to 8.6 metres, the ground level will be lowered by 1.69 metres and as a result will not have a dwarfing or oppressive effect.
- A new all 1.8 metres high will be constructed and the pathway was to facilitate access to the gardening shed which is now relocated.
- The storage and handling of medical and other waste is referred to and that the enclosed bin enclosure is accessed from Monastery Road and is 60 metres from the appellants.
- Great care was made to address overlooking in the design of angled windows to prevent direct overlooking.
- The stepped nature of the design addresses adverse impacts from overshadowing.

#### David Hudson

- There are trees along the boundary. There would be no objection to conditioning the use of obscure glass on the service corridor and the

requirement of a screen wall along the side of the roof garden if the Board consider this necessary.

- There will be no noise issues and the waste facility is enclosed.
- The exact location the ESB substation is a matter to be agreed with the ESB and their requirements.

#### Monastery Park Residents

- While the dining room faces north and will not get direct sunshine other communal facilities will receive sunlight.

CS Consulting in a submission address traffic and parking and indicate parking is provided as per SDCDP and a workplace travel plan will be introduced. The entrances will provide adequate visibility splays and there is no vehicular link within the site between the two entrances. Analysis of increased traffic volume arising from the proposed development do not indicate significant impact on the road network.

JJ Campbell and Associates address drainage and water supply and indicate no objections were received from the local authority. Storm water will be discharged to ground is possible. The works relating to the laying of the sewer in the open space will take approximately 3 weeks and the ground will be reinstated. The programme in relation basement works are outlined including photographic surveys of adjoining properties. A method statement will also be produced.

### 6.5. Third Party Response

**Richard and Rosaleen Russell** in a submission dated the 25<sup>th</sup> of July 2017 refers to;

- Additional information was requested and refers to height and density but permission was granted after token reduction was made.
- Issues of height and density as raised in previous refusals remain and the development is a direct intrusion on their privacy arising from overlooking.
- The issue of boundary ownership is not addressed.
- The request for a 2 metre wall is restated.

- Issues in relation to overshadowing, services, parking and impacts arising from the basement construction remain.
- The issue of rodents from the waste disposal area are referred to.
- Bats have been witnessed on the property and area.
- No environmental report was carried out of the site.
- Is there a need for a nursing home of this scale and size and a smaller scale facility may have been more acceptable.

## 6.6. **Planning Authority Response**

The planning authority in a response dated the 18<sup>th</sup> of July 2017 requests its decision be reaffirmed and that the issues raised in the grounds of appeal are addressed in their reports.

## 6.7. **Observations**

6.7.1. **Pamela Stagg and Others** in a submission dated the 17<sup>th</sup> of July 2017 refers to;

- The observers reside to the west of the proposed development.
- Submissions were made in relation to the height and density of the development.
- Trees are marked for removal which are on the observers' lands and have submitted evidence to that effect.
- There are concerns in relation to privacy arising from overlooking.
- Concerns are raised in relation to sewerage and parking.

6.7.2. **Ronan Duffy and Others** in a submission refers to;

- The current proposal is 13% larger than previous proposals refused on the site.
- The proposal precludes further extension of the library.
- The proposed development does not protect the character of the area, is not attractive infill and represents overdevelopment.

- The development is excessive in height, density and scale compared to adjoining development.
- The development does not integrate architecturally with the area, pattern of development or surroundings in relation to its scale, height and the level of parking.
- The level of parking is raised and there will be overspill into residential areas arising from the development.
- There is no provision for the parking of delivery vehicles and aspects of internal circulation are questioned.
- There is a poor standard of residential amenity for the residents of the nursing home facility in relation to provision of light and privacy.
- The development will give rise to overlooking and overshadowing.
- Reference is made to the current state of water and sewerage services in the area.
- Reference is made to the visual impact of the proposal on the library which is a protected structure.
- Issues are raised in relation to the handing of the additional information by the planning authority and despite issues arising in relation to the scale of the development the facility was increased on floor area in the further information and that there is no explanation of how concerns relating overshadowing were resolved.

## 7.0 **Assessment**

- 7.1. The main issues which arise in relation to the appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.
- 7.2. Principle of development.
- 7.2.1. The site is within an area zoned residential and the current proposal complies with the zoning. I would note that a number of the third party appellants have raised the use of the site for a nursing home.

- 7.2.2. In the housing strategy housing policy outlines a number of broad principles and objectives including H1 Objective 5: To ensure that those with specific housing needs, such as older persons, persons with disabilities, homeless persons and Travellers, are accommodated in a manner appropriate to their specific needs.
- 7.2.3. Section 2.1.2 refers specifically to housing for older people outlining support for the provision of accommodation for older people including nursing homes and includes a number of objectives in this regard including H3 Objective 1.
- 7.2.4. Given the provisions of the plan and the site's location in an established residential area in relative close proximity to Clondalkin village and other amenities the use is acceptable in the proposed location.
- 7.3. Design and layout.
- 7.3.1. The issue of overall design, scale and layout is central to many of the third party appeals in the context of the wider impact of the development on the area and its impact on adjoining properties both residential and the library which is a protected structure.
- 7.3.2. The development is a detached structure which is part single storey, part two storey and part three storey over part basement. The building is in part located to the rear of the library is mainly U shaped in configuration facing south, east and north with an internal open courtyard area on the inner edge of the U shaped building footprint. There is also an annexe located to the southeast. The development provides for access onto both Monastery Road and Monastery Park.
- 7.3.3. For the purpose of this assessment I will consider the revised details submitted to the planning authority on the 19<sup>th</sup> of May 2017.
- 7.3.4. Essentially the main features in relation to scale and design are retained but in response to concerns raised in relation to impacts on adjoining properties and a desire to provide a more coherent relationship with the library there were a number of significant alterations to the elevations and overall layout including setting back of the third floor level by increasing the footprint of the ground and first floor levels and a minor increase in the floor area of the buildings. There is also an increased vertical emphasis in the overall design and incorporation of a parapet. Brick is also incorporated on the elevation onto Monastery Road to address the relationship of the proposed development with the library and area generally. There were also

amendments to the fenestration by the reduction of the overall size of the windows and increased use of zinc at the upper level.

- 7.3.5. The site occupies an important location on the approach to the village along Monastery Road and its proximity to the library also presents a design challenge in providing a requirement for a distinct building to provide interest in the streetscape but also holding a sympathetic visual relationship with the library that does not overwhelm the library and its setting.
- 7.3.6. The proposed building is of a modern design and construction with a flat roof with the main entrance and orientation of the building towards Monastery Park but retaining a strong visual relationship to Monastery Road. I would have no objection to the overall approach taken in the design concept as other than the library building the dwellings in the immediate area are of a modern contemporary design.
- 7.3.7. The incorporation of three stories is a departure from adjoining development but the design provides for the overall mass to be broken up by the use of different heights and levels and to use the varying heights as a transition from existing adjoining development into the core of the proposed development. In this respect it recognises scale in adjoining properties and provides for a development with its own statement. The principle and concept of the design is therefore I consider acceptable.
- 7.3.8. Two issues arise in considering its relationship to adjoining properties. The first is the aesthetic relationship in particular its relationship with the library and the second relates to its potential impact on adjoining properties in particular impacts on residential amenities.
- 7.3.9. In relation to the impact on adjoining properties it is accepted that any development of the scale proposed has the potential to impact on amenities and some level of impact is inevitable. The overall development has however in its design and layout, in the location and placement of windows and amenity space areas designed on the premise I consider of minimising these impacts.
- 7.3.10. Any redevelopment of the appeal would present difficulties of establishing an appropriate design response and relationship with the library which is a very distinctive building. With regard to the relationship with the library the architectural conservation officer in the initial report expressed a number of concerns in relation to the original design.

- 7.3.11. The revised design submitted by way of further information which provides for a setting back of the third floor element, the use of zinc as the external finish of the upper element, the increased use a vertical emphasis in the overall design and the introduction of brick and stone reflective of the external finishes of the library has addressed the relationship of the proposed development and the library and I would generally agree with the overall assessment of architectural conservation officer in relation to the revised proposal.
- 7.3.12. The relationship to other structures in particular adjoining residential development is of importance to consider. Many of the third party submissions received do not consider that the proposal as submitted offer an appropriate design response and as a consequence adversely impacts on their amenities in terms of the visual relationship of scale, overlooking and overshadowing and proximity.
- 7.3.13. In relation to the impact on adjoining properties it is accepted that any development of the scale proposed has the potential to impact on amenities and some level of impact is inevitable. The overall development has however in its design and layout, in the location and placement of windows and amenity space areas designed on the premise, I consider, of minimising these impacts.
- 7.3.14. The overall concept as previously stated provides for a central three storied core with a lowering of height towards the boundaries which is achieved by the setting back of the third floor core as described and also the use of two storey and single storey sections. There is also use of angled glazed projections in the elevations to address and avoid direct overlooking of adjoining properties. Given the location of residential properties on adjoining lands some level of overlooking and a sense of presence of the actual structure will arise.
- 7.3.15. I consider that the placement of the footprint of the building and in particular the use of the U shape has largely addressed overlooking and has maximised distance to provide for physical separation and potential of overlooking.
- 7.4. Impact on adjoining properties/ Condition 2 of planning authority decision.
- 7.4.1. It would be acknowledged that a development which in terms of scale, floor area, footprint and height is greater than what current exists on the site will have some level of impact on adjoining properties and the area.



- 7.4.2. In relation to the physical relationship and proximity of the proposed building to adjoining properties this largely arises in relation to 6 Monastery Road on the western boundary and 1 Friars Walk on the northern boundary.
- 7.4.3. The planning authority in **condition no. 2** have required the omission of the first floor dining room adjacent to the boundary with 6 Monastery Road and the reason for the condition as stated is to avoid an overbearing impact and in the interest of residential amenity.
- 7.4.4. The applicant has appealed this condition and in the grounds of appeal
- 7.4.5. Condition no 2 requires a revision of the internal layout of the proposed development resulting from a requirement to omit the first floor element containing a dining room. This dining room section is in proximity to the western boundary adjacent to 6 Monastery Road and the omission in effect necessitates a revision of the internal layout indicating an alternative dining area. It is contended that the development as proposed would not cause injury to the residential amenities of 6 Monastery Road and the condition is unnecessary.
- 7.4.6. It is indicated that the dining room is to provide dining facilities at first floor level to residents on that floor and follows a similar layout to the ground floor and this from an operation perspective is the optimal arrangement for the delivery of food from the kitchen in the basement to the various serveries to the dining rooms.
- 7.4.7. In this regard I note that there is a kitchen and food preparation in the basement in the same section of the floor footprint as the dining room required to be removed by condition. There is also a dining room at ground floor level and food is brought from the basement area via a lift to the dining room areas on the ground and first floor levels. The design as presented is therefore a function for efficient organisation and operation of the proposed development.
- 7.4.8. Any removal of the dining room as required will necessitate its relocation to elsewhere on the floor and loss of bedroom and I would agree with the applicant that it will have operational consequences and loss of bedrooms. It may require a re-evaluation of the layout in terms of the kitchen and food preparation area and the dining areas facilities.
- 7.4.9. The dining room in question has no windows on the western and southern elevations, with a window overlooking the internal courtyard area and there is I would

submit no overlooking on the immediate properties in the vicinity. The primary concern therefore would appear to be the placement of a two storied building approximately 7.2 metres in height in relative close proximity to the common boundary. The building will be adjoining the rear garden area of 6 Monastery Road and located within 2 and 3.5 metres of the common boundary. The rear garden depth along the common boundary is approximately 22.7 metres. The building which has length of approximately 13.630 metres and will therefore run along or close to over 50% of the common boundary.

7.4.10. The presence of this first floor section will impact on the daylighting of the rear garden area though this will be limited to morning and noon periods and some loss of amenity as a consequence arises. I do not however consider that the scale of the proposal will give rise to an excessive sense of overbearing and loss of residential amenity. I therefore consider that the condition requiring the omission of the dining room should be omitted.

7.4.11. With regard to the common boundary with 1 Friars Walk the design provides for windows which are angled to look towards the public realm and not private rear garden areas. There is I consider adequate separation to the common boundary.

7.4.12. The issue of groundworks associated with the provision of the basement area has also been raised in relation to impact on adjoining residents and also potential impact on the library. Details relating to the excavation and survey of the site was submitted and further clarified in the course of the application in particular in relation to the potential impact on the library. An overall plan including the preparation of a method statement and photographic surveys of adjoining properties is also proposed.

7.4.13. I would have no objection to the details as submitted.

## 7.5. Transportation and parking

7.5.1. Reference is made in submissions to the issue of traffic and parking on the site and the consequent impact on the adjoining area. The site is served by two vehicular accesses, with the access onto Monastery Park serving primarily visitor parking and the entrance onto Monastery Road the servicing of the site with no link between the two access points. Revised proposal submitted provided for increased cycle parking.

- 7.5.2. The applicant engaged transportation consultants to address this matter in the initial proposal submitted and in the response to further information which required amendments to layout in particular in relation to insuring adequate sightline visibility, a revised parking and internal circulation layout and a reduction in the number of space to accord with development plan standards. In addition to the proposal also adopts the introduction of a workplace travel plan which focuses on the issue of parking.
- 7.5.3. Any development will impact on the existing network and the analysis of the impact while acknowledging this will occur it also indicates that no significant impact on the road network and the capacity of the network to accommodate the proposed development. A concern is that it will introduce additional traffic onto Monastery Park but there is an existing established and geometric satisfactory junction onto the Monastery Road. It is unlikely that peak flows from the proposed development will equate with the peak morning and evening flows.
- 7.5.4. An additional concern would relate to management of on-site parking and avoidance of overspill into adjoining residential areas. The requirements of the current SDCDP in relation to car parking provision are complied with.
- 7.5.5. Parking spaces by way of further information was reduced to 23 car parking spaces to comply with the SDCDP requirements and the staff bicycle parking area is relocated and there is also provision for visitor bicycle parking. 18 spaces are provided in the northeastern area of the site and are visitor spaces and 5 staff spaces are located in a location at the southwestern corner of the site to the north of the library. The staff bicycle parking is also located in this area.
- 7.5.6. The overall thrust of the development plan is reduction of car based travel and use of other modes of transport and for that reason parking was reduced in the revised proposal. I have no issue with this approach but this will require management and monitoring of on-site parking to ensure parking is reserved for visitors who will visit the facility and not for staff to occupy these spaces in particular when visitor parking is at peak demand.
- 7.5.7. The implementation and monitoring of a staff mobility plan is I would submit important in this regard as visitor usage of the parking area will be consistently high in particular during the day time period.

## 7.6. Ownership

- 7.6.1. Issues of ownership are also raised in submissions. I do not propose to address many of the issues raised and I would in this regard refer to section 5.13 of the department guidance on development management which refers to issues relating to title to land where it is indicated that *“the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not entitled solely by reason of a permission to carry out any development. Where appropriate, an advisory note to this effect should be added at the end of the planning decision”*.
- 7.6.2. In relation to making a planning application there is nothing definitively to cast doubt on the bona fides of any assertion by the applicant to make a planning application or that the applicant does not have sufficient legal interest or that the Board may if satisfied with matters relating to proper planning and development decide to grant permission.

## 7.7. Services

- 7.7.1. In relation to services it is proposed to connect to existing public piped services. Third party submissions have raised issues in relation to problems with existing services. Irish Water and the water services department reports have however raised no objections. I would note that the works will require the laying of a sewer in an area of public open space but this will cross an area of public realm and the works will be temporary in duration. I would have no objections to the details as submitted.

- 7.8. In relation to other aspects of the development I would have no objection. Revised landscaping proposals were submitted by way of further information which provide clarity in relation to boundary treatments and the relocation of the gardening shed away from trees on the site to a location adjoining the northern boundary. I would have no objections to these proposals.

## 7.9. Condition no 19

- 7.9.1. The applicant has appealed condition no 19 which relates to the requirement to carry out a bat survey contending that there is no prima facie evidence that bats roost or forage on the site and therefore the condition is unreasonable.

- 7.9.2. I would note that reference to bats or the presence of bats does not arise in the conservation officer report of the planning authority and relates to references in submissions by third parties. I would also acknowledge the applicant's contention that bat presence or usage has never arisen in previous applications.
- 7.9.3. I do however consider applying the precautionary principle given the conservation status of this species as all species of bats are protected that it is reasonable to include this condition.

## **8.0 Recommendation**

- 8.1. In view of the above assessment permission for the proposed development is recommended.

## **9.0 Reasons and Considerations**

Having regard to the provisions of the South County Dublin Development Plan 2016-2022, the location of the site and the pattern of existing development in the area it is considered that subject to it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 12<sup>th</sup> day of January 2017 and the 19<sup>th</sup> day of May 2017, 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 interests of clarity

- 2 Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

- 3 The internal road and circulation network serving the proposed development including parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

- 4 Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority.

**Reason:** In the interest of pedestrian safety

- 5 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

- 6 A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following: -
  - (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
  - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
  - (c) details of proposed boundary treatments at the perimeter of the site, and internally within the site including heights, materials and finishes.
  - (d) details relating to the protection of existing trees as required by the

planning authority

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme and shall include a timescale for implementation.

**Reason:** In the interest of visual amenity.

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

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

- 8 Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 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.

- .9 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management

- . 10 No development works shall take place until the applicant has submitted to and agreed with the planning authority a workplace travel plan in relation to the proposed development which shall include a provision for the ongoing monitoring of the plan.

**Reason:** In the interest of sustainable development

- . 11 Prior to the commencement of any development works on the site the applicant shall submit to and agree with the planning authority a safety statement in relation to the carrying out of basement works in respect of the proposed development. The safety statement shall include details in relation to the protection of adjoining buildings including the public library building and include the carrying out of photographic surveys of these buildings and structures.

**Reason:** In the interest of orderly development and safeguarding properties in the vicinity

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

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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



- . 13 Prior to the commencement of any development works on the site, the applicant shall undertake a bat survey by a competent qualified person or consultancy to ascertain the presence of any bat activity on the site in relation to roosting and foraging and an assessment of any potential impact on the species arising from the proposed development. The nature and methodology of this survey shall be agreed with the planning authority prior to the commencement of the survey. No building, feature or vegetation shall be altered or removed prior to this survey and assessment.

Full details of the survey and assessment shall be submitted to the planning authority in advance of any development works on the site.

Such the presence of bats be established on the site no development shall occur until the necessary permission/ derogation licence has been obtained from the appropriate statutory body.

**Reason:** In the interest of bat protection and to provide for the preservation and conservation of this species.

- . 14 Prior to the commencement of development on site, the applicant shall submit for the written agreement of the planning authority, a detailed invasive species management plan.

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

- . 15 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the

matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

---

. Derek Daly  
Planning Inspector

28<sup>th</sup> November 2017