



An
Bord
Pleanála

Inspector's Report PL06F.249341

Development	Demolition of existing buildings, and construction of a Mosque, community facility, school & related facilities.
Location	Blanchardstown Road North, Blanchardstown, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	FW6A/0134
Applicant(s)	Shuhada Foundation of Ireland
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	First v conditions Third Party v Grant
Appellant(s)	Shuhada Foundation of Ireland Patrick Regan
Observer(s)	10
Date of Site Inspection	19 th January 2018
Inspector	Karla Mc Bride

1.0 Site Location and Description

- 1.1. The appeal site is located in Blanchardstown on the W side of Dublin. It is located 1.5km to the N of Blanchardstown Shopping Centre, along Blanchardstown Road North (R121) and to the W of a roundabout junction. The surrounding area is mixed use in character and it comprises a range of residential, educational, religious and employment uses. The site is bound to the N and W by the Blanchardstown Institute of Technology and to the S and SW by the Kingdom Hall of Jehovah's Witnesses and Riversdale Community College. There is an area of landscaped public open space located between the S site boundary and Blanchardstown Road North. The wider area to the S and SW is characterised by 2-storey houses whilst there are commercial uses to the N and NE.
- 1.2. The c.1.17ha appeal site is occupied by the existing Warrenstown House which is a 2-storey, double fronted, period property that has been extended to the side and rear. This building was previously used by the HSE and it now functions as a Mosque with a residential unit at first floor level. The site is also occupied by a school, play area, pre-fab shop and a mobile home, with a small security cabin located at the entrance off Blanchardstown Road North along the SW site boundary. The remainder of the site is used for car parking, gardens and open space. There are several mature trees within the grounds and the site boundaries are mainly defined by palisade fencing, trees and hedges, with a brick wall along the N boundary.
- 1.3. Photographs & maps in Appendix 1 describe the site & surroundings in more detail.

2.0 Proposed Development

- 2.1. The proposed development would comprise an Islamic religious, community, cultural and education campus which would entail the following:
 - Demolition works at Warrenstown House (full demolition by way of FI)
 - Retention of 2 single storey extensions to House (omitted by way of FI)
 - Construction of a Mosque (with associated prayer halls, offices, classrooms, library, ablution space, azaan room, caretakers flat and ground floor mortuary)

- Construction of 2 schools in a 4-storey building (changed to 1 x 2-storey school by way of FI)
- Construction of a 2-storey multi-purpose events hall over car park (scale reduced by FI)
- An all-weather playing pitch (relocated by FI)
- Miscellaneous works including a halal retail unit, barber shop, offices, meeting rooms, restaurant and storage space
- Demolition of existing ancillary structures (shop, mobile home/storage & shed) and relocation of security hut to entrance
- New vehicular access and car & coach parking
- Associated site works including landscaping, boundary treatment and upgrades to the vehicular and pedestrian access of the main road.

Accompanying documents:

- Planning Report
- Engineering Services Report (original & FI)
- Operational Management Plan (FI)
- Preliminary Management Plan (FI)
- Stage 1 Safety Audit (FI)
- Landscape Report (FI)
- Tree Survey Report & Tree Protection Strategy (FI)
- Arboriculture Impact & Method Statement Report (FI)
- AA Screening Report (FI)
- Letter from Fingal County Council Property Services Division
- Letter from the Dept. of Education & Skills (Capital Appraisal Section)

3.0 Planning Authority Decision

3.1. Further Information

The planning authority requested and received FI in relation to the following matters:

1. Amendments to design, layout, height, scale & bulk of the buildings.
2. Programme of intended construction, phasing & coordination arrangements.
3. Operational Management Plan.
4. Revised transportation details in relation to access & car parking and a Preliminary Mobility Management Plan.
5. Environmental health details for the café/restaurant.
6. Surface water drainage details.
7. An up to date Tree Survey for the site.
8. An AA Screening report.
9. Details of external lighting & signage.

The FI response resulted in significant amendments to the design, layout, height and scale of the overall development. The main changes are related to:

- Full demolition of Warrenstown House
- Redesign of the Mosque building to give it more prominence within the site.
- Omission of one of the two schools.
- Reduction in the height & scale of the school and multi-purpose events hall.
- Relocated playing pitch.
- Revised layout, car parking and access arrangements off the public road.

3.2. Decision

Following the receipt of FI, the planning authority decided to grant planning permission subject to 22 standard conditions.

- Condition no.3 required the omission of the barber shop and retail unit.

- Condition no.4 stated that no development should proceed until the applicant submits a letter of consent from the owners of the area of land shown on drawing no. 17008. A.00.1.
- Condition no.18 required that the call to prayer not be audible from outside the site boundaries.
- Condition no.21 prohibited the use of the community hall and restaurant for commercial purposes.
- Condition no.22 required a S.48 financial contribution of €12,936.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The first report of the planning authority identified a number of difficulties with the proposed development and recommended that FI be sought in relation to several matters. The second report expressed satisfaction with the FI response and recommended that planning permission be granted, and this recommendation is reflected in the decision of the planning authority to grant planning permission.

3.3.2. Other Technical Reports:

Water Services: Requested FI in relation to surface water drainage, no objection subject to conditions following the receipt of FI which addressed their concerns.

Transportation: Requested FI in relation to layout, access & parking, no objection subject to conditions following the receipt of FI which addressed their concerns.

Parks & Green Infrastructure: Requested FI in relation to trees, landscaping and boundaries, no response to FI submission which addressed their concerns.

Environmental Health Officer: Requested FI in relation the school restaurant, no response to FI submission which addressed their concerns.

Architects: Requested FI in relation to the overall design, height, scale, bulk and layout, stated that the amended scheme (by way of FI) is a welcome addition to the architectural variety and of public buildings in Fingal.

Heritage Officer: Requested (verbally) Screening for AA, and is satisfied, following receipt of FI, that there will be no adverse impacts on any Natura 2000 sites.

Community, Culture & Sports: No objections.

Property: Noted that part of the site where consent was sought from the Council is not within Council ownership.

3.3.3. **Other reports**

Irish Water: No objections

Transport Infrastructure Ireland: No objections.

3.3.4. **Observations/submissions**

One letter received in relation to the original submission from Patrick Regan who raised concerns in relation to the lack of consultation with the community, traffic congestion, visual intrusion, and the oversupply of schools and playing pitches in the surrounding area.

In response to the FI submission, Mr Regan stated that he was happy with the removal of one minaret but that the remaining one is too high although well designed. However, he continues to have concerns in relation to traffic congestion, the scale of the proposal relative to the size of the site, and the lack of consultation.

4.0 **Planning History**

Reg. Ref. FW10A/0121: Permission granted for the demolition of existing and construction of new buildings and extensions for use by the HSE.

Reg. Ref. FW13A/0064: Permission granted for change of use of the ground floor of Warrenstown House to a Place of Worship, use of the first floor as a residential unit, extensions, change of use of existing day clinic to educational use, educational use of existing building to the rear, an all-weather play area with fencing and flood lighting, miscellaneous alterations, widening of existing access road with pedestrian entrance and gate. Temporary permission granted for 5 years for the erection of two

single storey pre-fabricated buildings for use as an ancillary restaurant/café and a single storey pre-fabricated building for use as an ancillary shop.

Reg. Ref. FW15A/0082: Permission granted for change of use of existing kitchen to a prayer room, change of use of store/boiler room to a kitchen, miscellaneous minor alterations, single storey extension, relocation of prefab structures and signage.

- Condition no. 2 required compliance with the terms and conditions of Reg. Ref. FW13A/0064.

5.0 Policy Context

5.1. Fingal Development Plan 2017 to 2023

Zoning objective: The appeal site is located within an area covered by the C1 zoning objective which seeks to “Provide for and protect civic, religious, community, education, health care and social infrastructure.” All of the proposed uses are Permitted in Principle except for the retail uses which are Not Permitted.

Community Infrastructure: Chapter 3.6 seeks to facilitate sustainable recreational, community and educational facilities in accessible locations which encourage community inclusion, whilst also protecting local amenities.

Green Infrastructure: Chapter 8 seeks to ensure that areas and networks of green infrastructure are identified, protected, enhanced, managed and created to provide a wide range of environmental, social and economic benefits to communities.

Development objectives & standards are contained in Chapter 12.

- Section 12.8 deals with community infrastructure, facilities and services.
- Section 12.10 sets out car parking standards in Table 12.8.

Objective DMS93 states that applications for community facilities should have regard to overall need, location, local amenity and access.

Objective DMS96 seeks to facilitate the development of additional places of worship and examine locating such uses within shared community facilities.

Objective DMS97 states that new places of worship should not create unacceptable traffic congestion, car parking difficulties or cause a nuisance to existing uses.

Objective DM113 seeks to limit the number of car parking spaces at places of work and education so as to minimise car borne commuting.

Table 12.8: Car parking standards

Land Use	Cars spaces	Bicycle spaces
Place of worship	1 per 5 seats	1 per 50 seats
Schools	1.5 per classroom	10 to 15 per classroom
Community hall	1 per 50sq.m.	1 per 100sq.m.
Offices	1 per 30sq.m.	1 per 60sq.m.
Restaurant	1 per 15sq.m.	1 per 150sq.m.
Retail unit	1 per 30sq.m.	1 per 100sq.m.
Apartment unit	1 to 1.5 per unit	1 per unit
Playing pitches	To be determined by PA	To be determined by PA

5.2. Natural Heritage Designations

The Rye Valley/Carlton cSAC (Code:001398) is located 8km to the SW of the site.

6.0 The Appeals

6.1. Grounds of First Party Appeal against Conditions

Condition no.2: omission of the Barber Shop & Retail Unit

- Precedent for a halal retail unit already established in Warrenstown House and permitted under FW13A/0064.
- Condition no. 3(b) of FW13A/0064 stated that the café and shop shall remain ancillary to the main use of the site, a Place of Worship/Community centre and shall not be leased or sold separately.

- The provision of halal to serve the Islamic community is a mandatory practice and the presence of a halal community food shop within Islamic Places of Worship is now standard practice.
- The location of the c.63sq.m. retail unit is shown on Drg. No.17008. A.100.
- This unit will provide food for the restaurant in the community building and to the people who will use the various facilities in the proposed development.
- There are no other halal shops in Dublin 15 and the unit is not for profit.
- Request an amendment to Condition no.2.

Condition no.3: omission of the Barber Shop & Retail Unit

- Concerns in relation to halal retail unit outlined above.
- Members of the Islamic community has specific requirements in relation to the use of barber facilities.
- If the Board decide to omit the unit, then request that the space be used as a computer room for adult education.

Condition no.22: S48 development contribution

- Contrary to the provisions of the Development Contributions Scheme.
- The €12,936 contribution relates to the residential unit (160sqm x €80.85)
- Article 10 (Exemptions & Reductions) of the Scheme provide for exemptions for certain categories of development:

(c) Registered charities which have exemption from income & corporation tax under s.207 of the Taxes Consolidation Act 1997 and who currently hold a tax exemption certificate from the Revenue Commissions, and the proposal must be exclusively for the primary purpose of the organisation.

(e) Non-commercial community related developments by voluntary non-profit making groups, clubs or organisations.

- The Shuhada Foundation is a non-profit Registered Charity (CHY-18219).
- The resident will be a trustee of the Shuhada Foundation who will be the caretaker for the overall development and has a central role in its operation.

- The unit will be exclusively used for the primary purpose of the organisation.
- Request the omission of Condition no.22.

6.2. Grounds of Third Party appeal

Lack of consultation:

- The size and scale of the project represents a major regional religious and cultural centre that will serve a huge area and adverse impact local residents.
- The first call to prayer can start at 5.30am with the last call at 9.00pm with up to 150 worshipers attending at any one time throughout the day.
- Celebration of Ramadan and other social events will attract larger numbers

Traffic congestion:

- Blanchardstown Road North is congested throughout the day.
- It provides access to Blanchardstown IT, Riversdale College, residential areas, Blanchardstown Shopping Centre and business parks.
- Many of the daily visitors come from outside the local area and do not travel by public transport.
- If a Traffic Assessment had been carried out it would have identified several recent road accidents involving children, regular illegal turning movements at the entrance and use of bus lane have given rise to a traffic hazard.

Car parking:

- The PA permitted 83 car parking spaces, 3 disabled spaces, 2 coach spaces and 12 bicycle spaces.
- Appellant has witnessed 152 cars leaving after Friday afternoon prayers with 10 remaining, and cars were also parked on the grass verge and footpath near the entrance.
- Overflow car parking in Riversdale College could not be facilitated during school hours.
- Local residents have endured overspill car parking from the neighbouring BIT.

6.3. First Party Response to Third Party appeal

- Proposal complies with C1 zoning objective with respect to places of worship.
- The local community was consulted on two occasions with regard to the zoning of the site in 2011 and 2017, and on three occasions with regard to the use of the site for a mosque and ancillary facilities (FW13A/0064, FW15A0082 & FW16A/0134).
- Current appeal relates to the intensification of a permitted use on appropriately zoned C1 lands which were previously zoned for residential use in the past.
- Concerns regarding the scale of the proposed development have been addressed in the FI response submission, the scale was reduced from 12,664sq.m. to 8,8068sq.m. and there was a further reduction of 477sq.m. as a result of the demolition of Warrenstown House.
- Concerns raised in relation to traffic and noise have been further addressed by the PA conditions.
- In relation to the traffic concerns:
 - The site has access onto the R121 Regional Route to which there is restricted access to and from the nearby residential areas.
 - There has been huge investment in the local road network including the N2-N3 link and the upgrading of the Mulhuddart interchange.
 - There is a bus stop at the site entrance which is served by a bus lane and a frequent bus service.
 - Good quality pedestrian and cycle routes in the area and substantial cycle parking proposed.
 - Peak traffic generated by the development will not coincide with the peak traffic of the major traffic generators in the area.
 - A Revised Mobility Management Plan and Event Management Plan are required by Condition no. 6 (D &E).

- The scheme will provide 118 car parking and 50 cycle spaces and 83 car parking & 12 cycle parking spaces.
- Applicant is not responsible for overspill car parking from other land uses in the area and it would not be convenient for any visitors to park outside the site.
- Potential traffic impacts were taken into consideration when the site was zoned for C1 uses, it is ideally located in relation to road, public transport, pedestrian and cycle networks.
- Condition no.18 requires that the call to prayer shall not be audible from outside the site boundaries, although would prefer to have it omitted as it is unreasonable, would be difficult to enforce and may be discriminatory, and it should be replaced with the standard noise condition for residential areas.
- It would appear that the Appellant has moved house to Ashbourne in County Meath and would not be affected by the proposed development.

6.4. **Observations**

A total of 10 letters of observation received from the following persons:

- Tania Doyle (Councillor)
- Margaret Mitten
- Dermot O'Sullivan
- Martin Mc Andrew
- Bernadette Burke
- Rachel Fletcher
- Brian Long
- Darragh Kelehan (plus petition)
- Deirdre Burnett
- Karen Kerr

Their collective concerns of the Observers are summarised below:

- Lack of consultation with the local community.
- Lack of integration with local community, creation of exclusive community and lack of public access to proposed community facilities.
- Oversupply of schools in the area.
- Several halal shops in the vicinity and numerous vacant shops units.
- Traffic generation, congestion, hazard and road safety.
- Inadequate car parking, particularly at Friday Prayer and during religious festivals and special events, and overflow car parking at Riverdale will not always be available.
- Inadequate vehicular access arrangements.
- Excessive scale, overdevelopment and unsustainable development.
- Visual and noise impacts of minarets.
- Adverse impact on the amenities of the surrounding area including loss of privacy, overshadowing, noise and traffic.
- Loss of historic building and inadequate open space.
- Loss of mature trees, hedgerows, bats, wildlife and biodiversity;
- Inadequate Tree Survey Report, Tree Strategy needed and increased tree planting should be required.
- Light pollution from floodlit playing pitches.
- Bat Survey, EIS and AA required.

6.5. Response to Observations

The Observations submitted by Tania Doyle, Margaret Mitten and Karen Kerr were circulated to the applicant, appellant the and the planning authority for comment.

Their responses are summarised below:

First Party response:

- No new issues raised.
- The documents submitted by Cllr Doyle and Ms Mitten do not meet the minimum requirements for a valid observation as they make no reference to, or comment on, any specific appeal.
- Cllr Doyle's observation was submitted along with, rather in response to, the Third Party appeal by Mr. Regan, and outside of the statutory time period for making an observation.
- Ms Mitten's observation is unduly offensive and based on inaccurate and misleading statements, and would not be accepted as a Third Party appeal.
- The issues raised in Ms Kerr's observation have been addressed by the PA in the request for Further Information and the planning conditions.

Third Party response:

- No new issues raised.
- Concurred with concerns raised by Ms. Mitten in relation to integration, the visual impact of the minarets and project finance.
- Concurred with concerns raised by Ms. Kerr in relation to AA Screening, the absence of a Bat Survey, and the need for a EIA.

Planning authority response:

- The issues raised were largely dealt with in the Planning Officer's report.
- The application was considered under the relevant Development Plan that was in force at the time the application was made (2011-2017) and when the further information was submitted (2017-2023), and the proposal which would occupy a brownfield site would comply with the C1 zoning objectives.
- No EIA is required having regard to existing EIA legislation and the yet to be transposed EIA Directive, and any outstanding impacts on the environment can be addressed by condition.

- The PA screened the application for AA and it was concluded that the project will not adversely affect any Natura 2000 sites.
- The applicant has indicated that the school and community centre will be open to everyone.
- The issue of funding is not a planning matter.
- The minarets will not be visually intrusive and potential noise disturbance will be controlled by Condition no.18
- The loss of trees is adequately compensated for additional tree planting, Condition no. 10 requires the full implementation of the landscaping plan, and a tree bond has been required.
- The existing buildings are currently occupied so it is unlikely that they would be used as bat roosts although the existing trees have the potential to host bat roosting sites.
- The NPWS submitted an observation to the Council on 8th September 2017 which was after the decision to grant permission was made on 07th September. The NPWS advised that the applicant be requested to provide additional information in the form of a Bat and Badger Survey to examine the possible impacts on populations and any mitigation measures that should be implemented.
- The NPWS concerns are noted, and the PA considers that the Board may wish to attach a condition that a Bat and Badger Survey be undertaken prior to the commencement of development and if evidence of bats roosting or badgers are present appropriate mitigation measures, such as the provision of new roosting sites be required to be incorporated into the new development and trees as appropriate.
- Request the continued inclusion of Condition no.22 which calculates the contributions for the commercial elements of the development.

6.6. Prescribed Bodies

Transport Infrastructure Ireland: No additional comments.

7.0 Assessment

The issues arising in this case are:

- Principle of development
- Design, layout & visual amenity
- Trees, landscaping & wildlife
- Movement, access & car parking
- Phasing & Operational Management Plan
- Residential amenity
- Legal interest
- Conditions
- Other issues

7.1. Principle of development

The appeal site is located within an area that is covered by the C1 zoning objective in the Fingal County Development Plan 2017 to 2023 which seeks to “Provide for and protect civic, religious, community, education, health care and social infrastructure.” All of the proposed uses are Permitted in Principle within this zone except for the two retail uses (the halal shop and barbers) which are Not Permitted. Condition nos. 2 and 3 of the planning authority’s decision to grant permission required the omission of the halal shop and barbers so that the development would accord with the provisions of the Development Plan.

Planning permission was previously granted under Reg. Ref. FW13A/0064 for the change of use of the Warrenstown House to a Place of Worship, a residential unit, educational use and associated activities. Temporary permission was also granted for the erection of two single storey pre-fabricated buildings for use as an ancillary restaurant/café and a single storey pre-fabricated building for use as an ancillary shop. Condition no.3(a) stated that permission for the prefab café and halal shop structure is valid for 5 years and that if the structures are no longer required prior to this period or on the expiry of this period, the structures should be removed and the

site reinstated to its former condition. Condition no. 3(b) stated that the uses should remain ancillary to the main uses on the site as a place of worship/community center. It is clear that Condition no.3(a) related to the use of pre-fab buildings whilst Condition no.3(b) sought to confine the use of the structures to the main use of the overall development. This previous application was assessed with regard to the then current Fingal County Development Plan 2011-2017, the site was zoned C1 for “Community Infrastructure” and retail uses were also listed as Not Permitted.

Notwithstanding the terms and conditions of the C1 zoning objective for the area, and having regard to the existing permitted retail uses on the site, and the way in which this issue was addressed under Reg. Ref. FW13A/0064, I am satisfied that the proposed halal shop and barbers would be compatible with the overall development of the site provided that these uses remain permanently associated with, and ancillary to, the proposed Mosque, community facility and school.

7.2. **Design and layout**

Original proposal:

Under the original planning application, the proposed development would cover almost the entire c. 1.4ha site and Warrenstown House would be retained. The Mosque would occupy the NE section, the two 4-storey schools would occupy the N section, the multi-purpose hall would occupy the E section, and the playing pitch would occupy the S section to the W of the Mosque building.

The planning authority raised serious concerns in relation to the quantum of development relative to the size of the site; the height, scale and bulk of the buildings; the position of the playing pitch; the retention of Warrenstown House which is not a Protected Structure; and the lack of prominence for the Mosque in the overall design and layout. The applicant submitted Significant Further Information which took account of the planning authorities concerns and the proposed development was substantially amended.

Having examined the submitted plans, I would share the concerns raised by the planning authority and this assessment will concentrate on the amended proposal.

Amended proposal:

Under the amended proposal, the quantum, scale, height and footprint of the proposed development would be reduced, the layout would be amended and Warrenstown House would be demolished. The 4 storey Mosque would be centrally located and occupy the S section of the site; the 3 storey multi-purpose hall would occupy the NE section with a 5-a-side playing pitch on the roof and it would be connected to the Mosque at first floor level; the single 2-storey primary school and garden would occupy the W section; and the parking areas would be located under the Mosque and community building and in the NE section of the site. The remaining open spaces would be landscaped with a mix of hard and soft materials and the boundaries would be planted with additional trees.

The amended scheme would contain the following:

Mosque:

- The c. 3,805sq.m. 4 storey Mosque would occupy the S section of the site.
- The proposed Mosque would have a contemporary design that encompasses a box like structure cantilevered over a solid base which faces in the direction of Qibla2 and the Kaaba in Mecca. The façade of the Mosque would comprise a lattice screen that encompasses an ornamental geometric pattern which is characteristic of Islamic architecture. The applicant has overlaid a traditional Islamic pattern onto a triangular fractal pattern (never ending pattern which creates an image of a dynamic system) and the large triangulation forms within this pattern is reflective of the structure of the mosque. The external materials would comprise laser cut weathering steel (COR-TEN) which will form a rust like appearance over several years. The Mosque would contain independent circulation spaces for both genders.
- The Minaret (from which Muslims are called to prayer), is located in the SW section of the Mosque and it comprises a c. 97m high slender steel cylindrical structure which tapers towards the top. This feature will be created by bending a flat sheet of steel cut at a 45-degree angle with the Crescent, which is the traditional symbol of Islam, cut out of the top of the Minaret.

- The ground floor would contain separate male and female entrance lobbies and shoe rooms, the Iman's office, female WC and ablution rooms, a mortuary and storage areas.
- The first floor would contain prayer rooms, male WC and ablution rooms, shoe rooms and lobbies.
- The second floor would contain prayer rooms, lobbies, teaching room, caretakers office and apartment (1st floor).
- The third floor would contain prayer rooms, a board room, library, kitchen, storage, apartment (2nd floor) and lobbies.
- The fourth floor level would contain a plant room.

Community facility:

- The c. 2,728sq.m. 3 storey building would occupy the E section of the site and it would extend out from the Mosque building.
- The community building would have a rectangular configuration with colonnades at ground level and it would connect directly with the Mosque at first floor level. The external materials would comprise a mix of per-cast white polished concrete along with timber and glass and the building would have series of setbacks at the upper levels.
- The ground floor would contain two entrances, a shop (63sq.m), a barber shop (45sq.m.) and extensive storage areas.
- The first floor would contain a multi-purpose sports hall (596sq.m.), two changing rooms, a restaurant/kitchen/storage area along with access to courtyard garden (126sq.m) and lobbies.
- The second floor would contain three offices, a gathering area and access to roof terrace (230sq.m).
- The third floor would contain a plant room, services, a 5-a-side football pitch (490sq.m) and a roof terrace (360sq.m.).

Primary school:

- The 1,535sq.m. 2-storey building would occupy a triangular corner position in the W section of the site.
- The proposed school would have a curved configuration with colonnades at ground level and it would also face in the direction of Qibla2, the school building Mosque would face each other across a central plaza. The external materials would comprise a mix of per-cast a white polished concrete along with timber and glass. The design and external materials would visually connect the building with the base of the Mosque and the community building.
- The building would contain 8 classrooms with access to a school garden

The design and layout of the proposed development, as amended by way of the Further Information response, represents a high quality response to the characteristics of the appeal site and the surrounding area, and to the religious and cultural needs of the Shuhada community. In particular, the design of the Mosque and Minaret is both contemporary and demonstrative of Islamic architecture. The amended height and location will ensure that the Mosque occupies a prominent position within the site without being overly dominant relative to the neighbouring land uses. Overall, I am satisfied that the proposed development would not have an adverse impact on the visual amenities of the surrounding area, and that it would make a positive contribution to the architectural and cultural heritage of this part of Fingal in particular and west Dublin in general.

7.3. Trees, landscaping and wildlife

The appeal site was originally occupied by Warrenstown House which is a 2-storey double fronted period building located within a landscaped setting. The site contains several mature trees including Beech, Monterey cypress and Sycamore, and there are a number of large Beech trees located in the S section of the site in the vicinity of the entrance. The site boundaries are mainly defined by overgrown hedgerows.

The application was accompanied by a Tree Survey Report, a Tree Protection Strategy, an Arboriculture Impact & Method Statement Report and a Landscape Plan. A total of 29 mature trees were identified and their condition was surveyed. The reports identified 4 trees that should be retained, including a large Beech tree in

the SE section, and tree protection measures were recommended including a “no dig” zone around the aforementioned Beech tree. The reports also recommended the planting of c.37 new trees, including Beech, Oak and ornamental Peached Limes along with Scots Pine around the site boundaries. This would result in of total of c.41 trees on the site which would give rise to an additional 12 trees over and above what currently exists on the site.

The proposed landscaping and tree planning proposals are considered acceptable in terms of visual and environmental amenity, subject to the implementation of the landscaping plans and robust tree protection measures. These concerns could be addressed by way of planning conditions. The planning officer’s Assessment of Financial Contribution report states that a €20,000 tree bond is required, and this could be attached by way of a planning condition.

The concerns raised by the Observers are noted in relation to the loss of trees and the more recent effects of Storm Ophelia, however, following my inspection of the site I am satisfied that no further tree surveys are required.

Wildlife and biodiversity:

The concerns raised in relation to the need for a Bat Survey are noted. Although it is possible that bats forage in the area and use the existing trees for roosting, it unlikely that suitable roost or maternity habitats are present within the existing buildings which are occupied and in regular use. Nonetheless, the applicant should be requested to submit a Bat Survey of the entire site. In the event that any bat species use the site, then appropriate mitigation measures should be proposed in order to ensure their protection and/or safe removal to a suitable nearby habitat. The applicant should note that Derogation Licence may be required.

The planning authority’s response to the circulation of three of the Observer’s submissions referred to a submission from NPWS that was received on 8th September 2017, the day after the decision was made to grant planning permission for the proposed development. The planning authority states that the NPWS submission referred to the possible presence of Badgers on the site (as well as Bats) and advised that a Badger Survey be carried out. The planning authority has

requested the Board to deal with this issue by way of a planning condition. Having regard to the general concerns raised by the parties to the appeal and the observers in relation to ecology, wildlife and biodiversity, I am satisfied that this does not constitute a new issue and the need for a Badger Survey could be addressed in a similar manner to the Bat Survey requirement.

The concerns raised in relation to Bats and Badgers could be addressed by a planning condition which requires the submission of survey reports, along with relevant mitigation measures.

7.4. Movement, access and parking

The proposed development would result in an intensification of the use of the site which would in turn lead to an increase in traffic and demand for car parking spaces.

Movement:

The appeal site is located along the R121 regional road which provides a direct link between the N3 to the SW and the M2 to the NE, and within the 60km/hr speed limit. The section of the R121 that is located between the N3 Mulhuddart interchange to the SW and the appeal site also serves Riversdale College, and there is one signalised junction further to the SW which permits access to the surrounding residential areas. The roundabout to the NE of the appeal site along the R121 provides access to the Blanchardstown Institute of Technology, the surrounding business parks at Ballycoolin and the Corduff residential estate to the S of the R121.

This section of the R121 does not provide direct access to any residential or commercial areas. The access to Riversdale College and the shared access to the appeal site and Kingdom Hall are the only two existing access/egress points along the road. This road is at its busiest during the morning and evening weekday peaks. The proposed development, which would comprise a Mosque, a community facility and a primary school, is unlikely to generate a significant amount of additional traffic at these times, during the normal course of events.

I visited the site on a Friday afternoon (the Muslim Holy Day) and observed no significant increase in traffic movements during two of the afternoon call-to prayer events. Whilst it is acknowledged that large scale cultural and religious events have the potential to attract large volumes of traffic, it is noted that overflow car parking

will be provided in the nearby Riversdale College and that any outstanding concerns in relation to traffic management could be addressed by way of an Event Management Plan. These issues are addressed in more detail below.

Vehicular access:

The site entrance, which comprises a “T” junction, is located c.75m SW of the junction of the R121 and this section of the road contains a quality bus corridor, grass verges, footpaths and cycle lanes. There is a pedestrian crossing and bus stop to the NE of the site entrance. The shared vehicular and pedestrian access to the site off the R121 is via a narrow lane that traverses an area of public open space and the access road is also shared by the Jehovah’s Witnesses Kingdom Hall.

The right turning movement is prohibited for vehicles exiting the appeal site. Vehicles travelling SW along the R121 towards the N3 interchange and the Blanchardstown Shopping Centre must first turn left towards the roundabout to the NE and then travel SW along the R121. Given the short distance to the roundabout, this arrangement is considered to be satisfactory in terms of traffic movement and safety, subject to the implementation of the proposed regrading of the pedestrian and cycle paths on either side of the entrance to improve visibility and sightlines.

The right turning movement is also prohibited for vehicles entering the appeal site off the R121 when travelling SW from the roundabout towards the N3 interchange and the Blanchardstown Shopping Centre. Access to the site is therefore restricted with no viable alternatives currently available and this arrangement would not be acceptable for the traffic associated with the proposed development, in terms of traffic movement and safety.

Under the amended proposal, the applicant has proposed a number of measures to improve traffic movement and safety to and from the site and along Blanchardstown Road North. It is proposed to upgrade the existing vehicular and pedestrian access, to widen the existing site entrance, and to provide a right turning pocket with associated works along the N, Central and S side Blanchardstown Road North in the vicinity of the entrance. The right turn pocket would accommodate 5 to 6 vehicles.

Transport Infrastructure Ireland had no objections to the proposed development. The Council's Road Department indicated satisfaction with the amended proposal subject to compliance with conditions related to the slight relocation of the Bus Stop, the

required gradient of the access road, the provision of a safe route for visually impaired pedestrians along the shared surface access road, and the implementation of the recommendations contained in the Stage 1 Road Safety Audit.

Car, bicycle and coach parking:

The proposed development, as amended by the Further Information submission, which included a reduction in the overall quantum of floor space and the omission of the secondary school, would provide for an acceptable level of vehicle and bicycle parking to serve the proposed uses under normal operational circumstances, broadly in line with Development Plan requirements as set out in Table 12.8. The amended scheme would include 3 disabled parking spaces, 3 set down spaces for the primary school and segregated coach parking and the submission was accompanied by a Preliminary Mobility Management Plan and Stage 1 Safety Audit. The applicant also submitted satisfactory confirmation that overflow car parking could be accommodated in the nearby Riversdale College car park during major religious and cultural events that could attract additional traffic.

The Council's Road Department indicated satisfaction with the amended proposal subject to compliance with conditions. These relate to minor changes to the car park layout to accommodate buses, the recommendations contained in the Preliminary Mobility Management Plan should be implemented, a designated Mobility Management Plan Coordinator should be appointed, and a revised Mobility Management Plan should be submitted within 12 months following completion of the works. An Event Management Plan should also be submitted to indicate how traffic would be managed during major cultural and religious events.

Conclusion:

Having regard to all of the foregoing, I am satisfied that the proposed development would provide for an acceptable level of off street car parking within the site and at the neighbouring school (when required) and it would provide for a safe means of access and egress off the public road. Furthermore, the proposed development would not result in excessive uncontrolled traffic generation, give rise to a traffic hazard, or endanger the safety of other road users.

7.5. Phasing and Operational Management Plan

Phasing of works: The proposed phasing arrangements, which would comprise: - the demolition of the prefabs; the construction of the new school and the demolition of the W wing of Warrenstown House; the construction of the new Mosque building; and the demolition of Warrenstown House along with the construction of the community building, are considered acceptable in terms of orderly development, the protection of surrounding amenities and traffic management.

Operational Management Plan: The proposed Operational Management Plan, which contains details information in relation to: - the opening hours for each element of the proposal; the anticipated numbers attending each element; the potential maximum number of persons attending each element; and the interactions between combined events, is considered acceptable in terms of orderly development, the protection of surrounding amenities and traffic management, subject to the submission of an Event Management Plan.

7.6. Residential amenity

The proposed development would be mainly bound by existing educational, religious and open space uses. The site boundary is set back c.70m from the rear garden boundaries of the nearest houses at Corduff estate to the S which is located on the opposite side of Blanchardstown Road North, and the proposed buildings would be set back c.80 from the rear elevations of these houses. Having regard to the height and design of the proposed buildings, the aforementioned separation distances and the orientation of the proposed development to the NE of the neighbouring houses, the proposed development would not have an adverse impact on the residential amenities of these houses by way of overlooking, overshadowing, overbearance or visual intrusion.

The concerns raised in relation to noise disturbance as a result of the “call to prayer” which occurs 5 time a day are noted, as is Condition no.18 of the planning authority’s decision to grant permission which required that the call to prayer not be audible from outside the site boundaries. The proposed Minaret would be located c.100m from the nearest residential area and the site is bound to the E and S by a busy road which gives rise to background traffic noise in the vicinity throughout the day.

However, it is acknowledged that the early morning call to prayer (c.5.30am) could be intrusive and affect residential amenity. However, this concern could be addressed by way of a planning condition which would set a maximum noise limit for the nearest noise sensitive location, to ensure that noise levels do not give reasonable cause for annoyance to people living in the surrounding area.

7.7. Legal interest

The Property Services Division of the Council's Economic Enterprise and Tourism Development section submitted two letters in relation to the original proposal and the amended proposal. Both letters confirmed the Council's consent to the inclusion of the land in its ownership as indicated on Drawing No. 16023-101 Rev A and Drawing No. 16023-301 Rev B for the purposes of making the planning application. The letters stated that the consent did not confer any rights to the applicant in respect of these lands and that the letter was issued subject to the applicant producing evidence of his right to use the existing right of way into Warrenstown House. The onus is therefore on the applicant to produce evidence of a right of way to the site.

Furthermore, it is noted that a small sliver of land located along the W side of the access road to the appeal site on either side of the entrance to the Kingdom Hall as indicated on several drawings, including Drawing No. 17008.A.001, belongs to the Jehovah's Witness Congregation and not the Council. An even smaller sliver of these lands is required to carry out the proposed upgrade works at the site entrance off the R121 and along the access road to the site. The onus is therefore on the applicant to provide a letter of consent from this organisation to carry out the proposed works before any development commences on the site.

Having regard to all of the foregoing, Section 34(13) of the Planning Act states that, a person is not entitled solely by reason of a permission to carry out any development. The Development Management Guideline advise that, where appropriate, an advisory note to this effect be added at the end of a planning decision or further information may be sought under Article 33 of the regulations. It is noted that the applicant has indicated that he is consulting with the Jehovah's Witness Congregation in relation to a letter of consent and that the Congregation has not submitted any objection to the proposed development. I am therefore satisfied

that an advisory note at the end of the decision would be appropriate in this case, in the event that the Board decide to grant permission for the proposed development.

7.8. **Conditions (nos. 2, 3 & 22)**

Condition no. 2 & 3:

These conditions required the omission of the halal shop and the barbers and the issues related to these conditions have been addressed in section 7.1 above.

Condition no.2 and 3 should be amended to allow for the two retail uses on the strict condition that the uses remain directly connected with, and ancillary to, the main use of the overall development on a permanent basis.

Condition no.22:

This condition required a S.48 financial contribution of €12,936 as a contribution towards expenditure that was and/or that is proposed to be incurred by the planning authority in respect of public infrastructure and facilities benefiting development in the area as provided for by the Council's Contribution Scheme.

Condition no. 22 does not specify the element of the proposed development land use to which the levy applies however the Assessment of Financial Contribution report states that the €12,936 contribution relates to the size of the floor area of the residential unit multiplied by the charge (i.e.160sqm x €80.85).

The Fingal Development Contribution Scheme 2016-2020 has been effective since the 1st January 2016. The Scheme set an updated rate of €80.85 per square meter of residential floorspace which has been effective from 1st January 2017.

Section 10 (i) relates to Exemptions and the following subsections are relevant:

- (c) Developments by organisations including registered charities having exemption from income tax and corporation tax under section 207 of the Taxes Consolidation Act 1997 and currently holding an exemption certificate from the Revenue Commissions. The development must exclusively for the primary purpose of the organisation.
- (e) Non-commercial community related developments by voluntary non-profit making groups, clubs or organisations.

The applicant submits that Condition no.22 is contrary to the provisions of Article 10 the Contribution Scheme which allows for certain exemptions and reductions for registered charities and non-commercial community related developments. The applicant states that the Shuhada Foundation is a non-profit Registered Charity (CHY-18219), that the occupant of the residential unit will be a trustee of the Foundation who will also be the caretaker for the overall development, and that the unit will be exclusively used for the primary purpose of the organisation.

Based on the information provided I am satisfied that the Contribution Scheme has been incorrectly applied to this development and that Condition no.22 should be omitted in its entirety.

However, the use of the proposed residential unit should remain permanently associated with, and ancillary to, the proposed Mosque, community facility and school. This could be addressed by way of a planning condition.

7.9. Other issues

Appropriate assessment: The proposal would be located within an established built up and serviced area which does not have a direct connection to any European sites within a 5km radius of the site. The contents of the AA Screening report and the concerns raised by the observer are noted.

Environmental Impact Assessment: The proposed development is not of a type, scale or size, or located within or close to a sensitive area that warrant a sub threshold Environmental Impact Assessment to be carried out.

Demolitions: The proposed removal of existing structures is considered acceptable as none of the buildings are protected structures and the site is not located within a Conservation Area.

Environmental services: The arrangements are considered acceptable subject to compliance with the requirements of Irish Water and the planning authority.

Flooding: The site is not located within a flood risk zone and the proposed development would give rise to a flood risk within the site or surrounding area.

Other elements: The other elements of the proposed development, including the restaurants, caretaker's apartment, open spaces, lighting and signage above are considered acceptable, subject to compliance with Council requirements.

Validation: The concerns raised by the applicant in relation to the validity of the Observer's submissions are noted. However, I am satisfied that that they are valid and that they comply with the relevant provisions under Section 130 of the Act.

8.0 Recommendation

- 8.1. Arising from my assessment of this appeal case I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Fingal County Council Development Plan 2017 to 2023, and to the nature, and scale of the proposed development, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. 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 Information received by the planning authority on the 10th day of August 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 interest of clarity.

2. For the avoidance of doubt, the development shall be constructed in accordance with plans and particulars that were received by the planning authority on the 10th day of August 2017.

Reason: In the interest of clarity

3. The use of the halal shop, barbers shop and caretaker's residential unit shall remain ancillary to the main use on the site as a religious, cultural, community and educational campus, and the units shall not be leased or sold as separate independent units.

Reason: In the interest of clarity and orderly development.

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

Reason: In the interest of the visual amenities of the area.

5. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected (on the building/within the curtilage of the site) unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

6. The development shall comply with the following tree protection requirements:

- (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

7. The tree planting and landscaping schemes for the open spaces shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity and to protect wildlife and biodiversity

8. The developer shall carry out a Bat survey and a Badger survey of the site. The ensuing reports shall contain relevant mitigation measures for the construction and operational stages of the development for each species, in the event that they are found to be present on the site. These reports shall be submitted to the planning authority for written agreement before development commences, and the developer shall apply to the National Parks and Wildlife Service for a derogation licence in respect of each species, as appropriate.

Reason: To protect wildlife and biodiversity.

9. The developer shall comply with the following transportation requirements:

A. Details in relation to the following shall be submitted to the planning authority for written agreement before the development commences:

- (i) The design and construction details for the provision of the right turn pocket Blanchardstown Road North.
- (ii) The design and construction details for the proposed upgrading of the existing access road with a view to minimising gradients and providing appropriate traffic calming measures.
- (iii) The design and construction details for the proposed upgrading of the existing access road with a view to minimising the

maximum gradients and providing appropriate traffic calming measures.

- (iv) The design and construction details of the transitions from the shared surface to the normal road surface/footpaths.
 - (v) The cross section of the internal road network.
 - (vi) The location of the proposed set-down areas prioritising bus set-down.
 - (vii) Alterations to the proposed layout and circulation area to accommodate turning movements.
- B. The design and construction of the right turn pocket shall be carried out at the applicant's expense according to the Specifications and Conditions of the planning authority.
- C. The recommendations of the Road Safety |Audit shall be implemented to the satisfaction of the planning authority.
- D. A Revised Mobility Management Plan (MMP) shall be submitted for the written approval of the planning authority within 12 months of completion of the works, including the appointment of a Mobility Management Co-ordinator, the public "Tax-saver" scheme, the "bike to work" scheme and in particular, additional bicycle parking spaces shall be provided if the MMP identifies an increasing bicycle mode share.
- E. An Event Management Plan shall be submitted for the written approval of the planning authority before development commences.
- F. All underground or overhead services and pole shall be relocated, as may be necessary, to a suitable location adjacent to the new boundary at the developer's expense.

All of the above works shall be carried out at the applicant's expense according to the Specifications and Conditions of the planning authority.

Reason: In the interest of traffic safety, orderly development and the proper planning and sustainable development of the area.

10. The following requirements in relation to noise shall be complied with: -

(a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed: -

- a. An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
- b. An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity.

11. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.

12. The management of waste during the construction and operational phases of the development, shall comply with the requirements of the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.

13. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

14. The site works and building works required to implement the development shall only be carried out between 7.00 hours and 18.00 hours, Monday to Friday and between 08.00 hours and 14.00 hours on Saturdays and not at all on Sundays or Bank Holidays.

Reason: To safeguard the residential amenities of adjacent dwellings.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to the value of Twenty thousand euro (€ 20,000) to ensure the protection of trees which have been identified for protection on the site.

Reason: To ensure the satisfactory protection of trees on the site.

Karla Mc Bride

Senior Planning Inspector

09th February 2018