



An
Bord
Pleanála

Inspector's Report ABP-300150-17

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| Development | Six lighting poles, landscaping and signage. |
| Location | Sports Pitch adjoining The Victory Centre, Firhouse Road, Dublin 24. |
| Planning Authority | South Dublin County Council. |
| Planning Authority Reg. Ref. | SD17A/0290. |
| Applicant(s) | Julie Lind. |
| Type of Application | Permission. |
| Planning Authority Decision | Refuse Permission. |
| Type of Appeal | First Party v Refusal. |
| Appellant(s) | Julie Lind. |
| Observer(s) | National Parks and Wildlife Service, Dept. of Culture, Heritage, and the Gaeltacht. |
| Date of Site Inspection | 7 th March 2018. |
| Inspector | Susan McHugh |

1.0 Site Location and Description

- 1.1. The appeal site is located to the south of the Dodder River Valley, with access from the R114 Firhouse Road.
- 1.2. The site forms part of a larger site within the grounds of The Victory Centre and associated surface car park located to the east. The residential areas of Tymon South and Kilinenny are situated to the south and west respectively. Adjacent to the south west of the site is Kilinenny House. The River Dodder flows from south-west to north-east to the north of the site.
- 1.3. The appeal site, which has a stated area of 1.032 hectares, comprises an existing grass playing pitch. The north-eastern boundary to the adjoining car park is open and the southern boundary is defined by earth mounding. The southwestern boundary is defined by mature dense planting, while the north-western boundary is defined by a fence and planting. Site levels fall gradually from west to east with the existing levels varying from approximately 84.8OD to 84OD.
- 1.4. An existing public path with public lighting is located outside and along the northern boundary of the site, which connects to a pedestrian bridge across the Dodder River forming part of the Dodder Valley Greenway.

2.0 Proposed Development

- 2.1. The proposed development comprises the erection of six lighting poles each supporting sports pitch LED lighting. The poles would be at a height of 15 metres from the existing pitch levels and connected to an existing subterranean ducted electricity supply.
- 2.2. Landscaping works would comprise supplementary tree and hedgerow planting to the existing site boundary to the north of the site, adjacent to the Dodder Valley Greenway.

- 2.3. It is proposed to erect site signage on the Firhouse Road and on the Dodder Valley Greenway.
- 2.4. The application to the planning authority was accompanied by a number of documents which set out the proposal in some detail, these include:
- Flood Lighting Report – IN2 Engineering Design Partnership
 - Lighting Assessment and Bat Survey – Faith Wilson, Ecological Consultant
 - Cover letter and Planning Statement – Currie and Brown.
- 2.5. Proposed access to the development is from Firhouse Road (Regional Road R114).

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to **refuse** permission for the following reasons:

1. *The proposed development would materially contravene:*
 - (a) *the land use zoning objective for the area which is: To protect and enhance the outstanding natural character and amenity of the Dodder Valley,*
 - (b) *the intention of the proposed natural heritage area.*
 - (c) *policies HCL10, HCL10, Objective 1, HCL13 Objective 1 and HCL13 Objective 2 HCL15 Objective 1, G2 Objective 3, G4 Objective 4, of the South Dublin County Development Plan 2016-2022.*

Thus, the proposed development would be contrary to the proper planning and sustainable development of the area.
2. *The importance of the Dodder Valley for 7 of the 9 species of Irish bats known to occur in Ireland is well recognised. These species are listed in Annex II of the EU Habitats Directive. Significant efforts have been made by South Dublin County Council in the course of other projects and developments along the river to minimize lighting impacts on bats.*

Whilst a lighting design, timing of use and landscaping proposals have been offered by the applicant as mitigation, the impact on bats of these measures would be negligible in an area which is currently managed as a darkened area suitable for bats.

The addition of a significant block of high intensity lighting in an extremely sensitive ecological area would have significant adverse impacts on these Annex II protected species. Thus, the proposed development would seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 12th October 2017)

Basis for planning authority decision.

Include:

Reference to;

- The proposed 15m high sports pitch LED lighting to existing sports pitch has the potential to seriously injure the visual, recreational, environmental, ecological, geological and amenity value of the Dodder Valley a proposed Natural Heritage Area.
- The existing sports pitch formed part of an overall application for construction of Christian Church building with associated car parking spaces and relocation of existing GAA pitch permitted by An Bord Pleanála. As part of the appeal process the applicant amended proposals relating to ceding additional lands to the Local Authority adjacent to the Dodder Valley which resulted in the re-orientation of the pitch to the current orientation and these amendments were accepted by An Bord Pleanála.
- The lighting poles to the north west of the pitch are, at the closest point, 3.6m from the perimeter fencing of the Christian Church Grounds and 15m in distance from the edge of the bank of the River Dodder at its closest point. The applicant states that the proposed development is at least 35m from the river-bank. It is assumed that the applicant has measured from the edge of

the river itself. For clarity, the river bank is taken to be the edge of the grassed bank which slopes down to the river. This is an important point for the purposes of assessment of impact on the habitats and ecology of the River Dodder which would be contained in the grassed banks of the river.

- Having regard to the distance of the proposed development, within 15m of the bank of the River Dodder, (which significantly breaches the 30m minimum distance from the riverbank set out as a condition for Sports Club/Facility and Recreational Facility use being open for consideration), the proposed development contravenes the land use zoning objective and should, therefore, be refused.
- Recommend refusal in line with the recommendations of the Heritage Officer and Parks and Landscape Services Departments of the planning authority.

3.2.2. Other Technical Reports

Water Services: no objection subject to conditions.

Environmental Health Officer: no objection subject to conditions.

Roads Section: no objection.

Heritage Officer: recommends **refusal** relating to the protection of bats. A brief summary includes:

- The Dodder Valley is a well-recognised location for protected mammal species including badgers, otters and bats, all of which are protected under the Wildlife Act 1976, as amended by the Wildlife (Amendment) Act 2000. Otters and bats are also protected species under the EU Habitats Directive (9243/EEC) and European Communities (Birds and Natural Habitats) Regulations 2011, SI 477/2011;
- The Dodder Valley offers considerable foraging and roosting potential to bat populations; A number of bat surveys have been undertaken in recent years in the Dodder Valley in preparation for the Dodder Greenway project and other proposed development applications in this area, including SDCC's Part 8 proposal for the provision of active amenity spaces in the Dodder Linear Park; These studies confirm the significant importance of the River Dodder and its associated habitats for bats,

badgers and otters; Studies have recorded up to 7 of the 9 species of Irish bats occurring along the Dodder Valley;

- A number of bat species are known to be very sensitive to light intensity and different bat species also display different flight zone preferences; This light sensitivity has been a key focus of the development of the Council's specialised 'bat-friendly' lighting design for the Grand Canal Green Route and subsequently for the nationally-funded Dodder Greenway project, a section of which has already been installed directly adjacent to the rear of the applicants property; it also informed the design stage of the Part 8 proposal for sports amenity provision at the Mount Carmel section of the Dodder Valley Linear Park in 2017, located immediately adjacent and downstream of the current application site;
- The proposal represents a block of light in a currently dark zone where bats are recorded as foraging; the impact of horizontal lighting glare on bats commuting and feeding in the intervening area of land between the proposed development site and the river has not been adequately assessed; proposals submitted to enhance boundary planting are welcome but are considered inadequate to sufficiently address lighting impact in a timely and on-going manner;
- The proposed high intensity lighting is not compatible with the overall policy objective to 'protect and enhance the outstanding character and amenity of the Dodder Valley'; mitigation measures are proposed by the applicant to address the issue of light impacts on bats that involve a timed use of the lighting, however as flood lighting is switched on for use precisely around the time when bat species begin to emerge from their roosts and commute to feeding grounds, feeding by bats can be impacted upon by floodlighting.

Parks and Landscape Services: recommends **refusal**. Reference to; the Council are currently in the process of reviewing existing lighting along the footpath in the adjacent site along the Dodder, to ensure the potential impact to bats is reduced, in line with recent ecological recommendations as part of the Part 8 Dodder Valley Mt Carmel Greenway proposals; the Council also recently removed proposed lighting from proposed recreational facilities in the site adjacent (Dodder Valley Mt Carmel) due to the potential for impact to bats in particular.

3.3. Prescribed Bodies

Irish Water: no objection subject to conditions.

3.4. Third Party Observations

None.

A note from the Rathfarnham/Tempelogue/Terenure Area Committee meeting of 12th September 2017 states that Councillors D. O'Donovan, B. Lawlor and P. Foley commented on the application and that all councillors present noted the application.

4.0 Planning History

4.1. Parent Permission

4.1.1. **P.A. Reg. Ref. SD04A/0666 ABP Ref. No. PL06S.209775:** Permission **granted** in July 2005 for

- Construction of Christian Church building (circa 2,932 M2) to be used as a place of worship and associated community activity.
- 121 car park spaces and 24 bikepark spaces.
- New gated vehicular and pedestrian entrance off the Firhouse Road.
- On site stormwater attenuation tanks and outfall structure, discharging to the Dodder River. On site foul collection/pumping station connecting to public sewer on the Firhouse Road.
- Construction of low level wall with railings around the perimeter of the entire site boundary.
- Provision of 2.4 metre wide footpath and associated planting to the west of the site for proposed linear park development.
- Relocation of existing G.A.A. pitch.
- Site landscaping and planting and all associated site works.

4.1.2. *Conditions of relevance include;*

Condition No. 9 states *'External lighting, including car-park, shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.'*

Reason: *In the interest of amenity and public safety.'*

Condition No. 13 states *'Prior to commencement of development, a landscaping scheme shall be submitted to the planning authority for agreement. This shall be submitted to the planning authority for agreement. This scheme shall include details of all existing trees and hedgerows on the site, specifying those proposed for retention, together with measures for their protection during the period in which the development is carried out. The scheme should include screen planting inside the realigned boundary to the north-west of the G.A.A. pitch and between the pitch and the car-park. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation.'*

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

- 4.1.3. It is noted in relation to lighting for the development the Inspectors Report of ABP Ref. PL06S 209775 states; *'The lighting of the car park area should be such as to minimise its impact on the Dodder Valley Park.'*
- 4.1.4. No details of compliance submissions relating to Conditions No. 9 and 13 were recorded.
- 4.2. **P.A. Reg. Ref. SD05A/1055:** Permission **granted** in June 2006 for amendments to previously approved planning permission P.A. Reg. Ref. SD04A/0666 and ABP Ref. No. PL06S.209775. Amendments included: revised location of vehicular entrance, amendments to car parking, drop off configuration, revised location of pedestrian access to public park to west, associated landscaping and site works, all on a site of 2.7874 hectares.
- 4.3. **P.A. Reg. Ref. SD07A/0553:** Permission **granted** in September 2007 for amendments to previously approved planning permission P.A. Reg. Ref. SD05A/1055 ABP Ref. No. PL06S.209775. Amendments included; extension at the ground floor and basement, relocation of substation and bin stores, revised landscaping, and extension to the basement giving a total floor area of 5,226sq.m.

- 4.4. **P.A. Reg. Ref. SD09A/0255:** Permission **granted** in September 2009 for amendments to previously approved planning permission P.A. Reg. Reg. SD07A/0553 and P.A. Reg. Ref. SD05A/1055 ABP Ref. No. PL06S.209775. Amendments included; alterations to landscaping, an additional area of 100sqm., change of use of part of the basement plant space into accommodation, and alterations to elevations and fenestration.
- 4.5. **P.A. Reg. Ref. SD10A/0176:** **Split** decision in September 2010.
- 4.5.1. Permission **granted** for pedestrian entrance gate to the Firhouse Road with stone clad side walls, steps, signage, landscaping and lighting and landscaping to the north of the subject site.
- 4.5.2. Permission **refused** for an extension to the existing car park providing an additional 75 cars. Reasons for refusal No.1 and 2 referred to the material contravention of the high amenity zoning objective for the site, and the principles of sustainable development.

Reason for refusal No. 3 stated that;

“The site is adjacent to a tributary of the river Dodder and adjacent to the proposed Natural Heritage Area (Dodder Valley proposed NHA, Site Code 000991). The River Dodder flows into Dublin Bay which supports a number of Natura 2000 sites. Natura 2000 sites are protected habitats for flora and fauna of European importance. They comprise Special Areas of Conservation, designated under the Habitats Directive and Special Protection Areas designated under the Birds Directive.

The applicant has not demonstrated that the proposed development will not impact on the Dodder River, thereby adversely impacting on protected species and natural habitats both in the River Dodder and downstream in Dublin Bay.

In the absence of evidence from the applicant to the contrary, the proposed development would contravene materially a development objective indicated in the Development Plan for the conservation and preservation of a European site insofar as the proposed development would adversely affect one or more natural habitat types in the Habitats Directive or species of bird or their habitat or other habitat in the Birds Directive.”

- 4.6. **P.A. Reg. Ref. SD17A/0248:** Permission **granted** in September 2017 for retention of a sign at the entrance to the appeal site from Firhouse Road. Condition no. 2 restricted further signage in the interest of visual amenity.

5.0 Policy Context

5.1. South Dublin County Development Plan 2016-2022

- 5.1.1. The site is zoned Objective **High Amenity Dodder Valley** 'HA(DV): To protect and enhance the outstanding natural character and amenity of the Dodder Valley'.

Recreational Facility use is 'open for consideration' subject to the following;

- In existing premises.
- Subject to acceptable landscape impact assessment.
- All development classes shall not be permitted within 30m of the river bank, in order to protect recreational amenity.
- For small-scale amenity or recreational purposes only.

Sports Club/Facility use is 'open for consideration' subject to the following;

- Subject to acceptable landscape impact assessment.
- All development classes shall not be permitted within 30m of the river bank, in order to protect recreational amenity.
- For small-scale amenity or recreational purposes only.

- 5.1.2. Section 3.9.0 of the Development Plan considers *Sports Facilities and Centres*. **Policy C7** states that "It is the policy of the Council to ensure that all communities are supported by a range of sporting facilities that are fit for purpose, accessible and adaptable".

C7 Objective 1 states *“To support the provision of new or improved sports and leisure facilities in the County”*.

C7 Objective 3 states *“To support and provide a framework for the improvement, maintenance, upgrade and refurbishment of existing community based facilities, within the County, to meet current and future needs”*.

C7 Objective 4 states *“To encourage the co-location of community and sporting facilities”*.

C7 Objective 5 states *“To promote and support communities and clubs in developing minority sports in the County by providing indoor and outdoor spaces for the pursuance of these activities”*.

C7 Objective 6 states *“To support the provision of permanent space for well-established sports and leisure clubs, including amateur boxing clubs and scouts clubs, in the County”*.

5.1.3. Section 8.1.0 of the Development Plan considers *Green Infrastructure Network*.

Policy G2 states that *“It is the policy of the Council to promote and develop a coherent, integrated and evolving Green Infrastructure network in South Dublin County*

G2 Objective 1 states *“To reduce fragmentation of the Green Infrastructure network and strengthen ecological links between urban areas, Natura 2000 sites, proposed Natural Heritage Areas, parks and open spaces and the wider regional Green Infrastructure network.”*

G2 Objective 3 states *“To restrict development that would fragment or prejudice the Green Infrastructure network”*.

Policy G4 states that *“It is the policy of the Council to provide a hierarchy of high quality and multi-functional public parks and open spaces”*.

G4 Objective 4 states *“To minimise the environmental impact of external lighting at sensitive locations within the Green Infrastructure network to achieve a sustainable balance between the recreational needs of an area, the safety of walking and cycling routes and the protection of light sensitive species such as bats”*.

5.1.4. Section 9.2.3 of the Development Plan considers the *Liffey Valley and Dodder Valley*

Policy HCL 10 states that *“It is the policy of the Council to protect and enhance the visual, recreational, environmental, ecological, geological and amenity value of the Liffey Valley, as key elements of the County’s Green Infrastructure network”*.

HCL 10 Objective 1 states *“To restrict development within areas designated with Zoning Objective ‘HA-LV’ (To protect and enhance the outstanding character and amenity of the Liffey Valley) and ‘HA-DV’ (To protect and enhance the outstanding character and amenity of the Dodder Valley) and ensure that new development is related to the area’s amenity potential and is designed and sited to minimise environmental and visual impacts”*.

5.1.5. Section 9.3.2 of the Development Plan considers *Natural Heritage Areas*.

Policy HCL 13 states that *“It is the policy of the Council to protect the ecological, visual, recreational, environmental and amenity value of the County’s proposed Natural Heritage Areas and associated habitats”*.

HCL13 Objective 1 states *“To ensure that any proposal for development within or adjacent to a proposed Natural Heritage Area (pNHA) is designed and sited to minimise its impact on the biodiversity, ecological, geological and landscape value of the pNHA particularly plant and animal species listed under the Wildlife Acts and the Habitats and Birds Directive including their habitats”*.

HCL13 Objective 2 states that *“To restrict development within a proposed Natural Heritage Area to development that is directly related to the area’s amenity potential subject to the protection and enhancement of natural heritage and visual amenities including biodiversity and landscapes”*.

5.1.6. Section 9.3.4 of the Development Plan considers *Non-Designated Areas*.

Policy HCL 15 states that *“It is the policy of the Council to protect and promote the conservation of biodiversity outside of designated areas and to ensure that species and habitats that are protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992 are adequately protected”*.

HCL15 Objective 1 states “To ensure that development does not have a significant adverse impact on rare and threatened species, including those protected under the Wildlife Acts, 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992”.

HCL15 Objective 2 states “To ensure that, where evidence of species that are protected under the Wildlife Acts 1976 and 2000, the Birds Directive 1979 and the Habitats Directive 1992 exists, appropriate avoidance and mitigation measures are incorporated into development proposals as part of any ecological impact assessment.”

5.2. Natural Heritage Designations

There are no designated European sites within the vicinity. The Dodder Valley proposed Natural Heritage Area pNHA (Site Code 000991) is located directly to the west and north of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal is submitted by Currie and Brown (Ireland) Ltd on behalf of Julie Lind. Grounds of appeal include a number of enclosures of particular note:

- Ecological Report Update
- Lighting Report Update and Drawing

The grounds of appeal address the individual reasons for refusal and are summarised as follows:

Reason for Refusal No. 1

- Disappointed at the uncompromising approach of the planning authority in refusing permission outright, despite the established use of the sports pitch and the carefully design proposal presented.
- Condition no. 9 of the parent permission ABP Ref. PL 06S.209775 anticipated ‘external lighting’ of the site.

- The claim in Reason No. 1 (a) that the zoning objective is materially contravened is not proven and is unsubstantiated.
- The only permitted use within the HA-DV zoning objective is 'Open Space'. The definition of open space provided under the County Development Plan would suggest that the active recreational use of the privately-owned land as a sports training pitch is a permitted in principle use, and that the enhancement of that use through the provision of lighting is also permitted in principle. The proposed development is not a material contravention of the zoning objective.
- In relation to Reason No. 1 (c) the inclusion of multiple policies and objectives is unreasonable and a scattergun approach, with only some of the policies relevant to the current proposal. The proposed lighting proposal accords with Policy HCL10 and with Objective 1 of Policy HCL10. Notes that the proposed development is not located within the Dodder Valley NHA but adjoins it, and is in accordance with Objective 1 of HCL13 and Objective 1 of the HCL15 in that the proposal has been designed and sited to minimise its impact on the biodiversity, ecological, geological and landscape value of the pNHA and to ensure that the development does not have a significant adverse effect on protected bat species.

Reason for Refusal No. 2

- The wording of Reason No. 2 is contradictory, which in the main refers to the ecological impact of lighting on bats and then concludes that the development would seriously injure the amenity of property in the vicinity. It is assumed that this is a grammatical error as the impact on the amenity of residential and other properties in the wider area was not a concern. In any event the adjoining property to the south (Kilininy House) is well screened from the sports pitch by mature evergreen trees.
- Disagree with the conclusions of the case planner and the heritage officer that the carefully designed proposal and mitigation measures would have a 'negligible' mitigation impact on breeding bats in the area.
- Need to assess each application on its own merits. Notes differences between current proposal and local authority projects in respect to location, scale and

intensity of use and designation. Crucially the subject lands are outside the pNHA.

- The hedgerows and trees to the west and north of the sports pitch are the primary ecological concern and no planting is being removed but rather additional planting is proposed to strengthen the green corridor which provides a feeding ground and route for the bat species. The lighting is specifically designed and directed to keep lux level down to <3 for these foraging areas.
- In relation to the timing of lighting use, contend that limiting the timing of the lighting to match that of the opening hours of the adjoining park is a reasonable measure given that the park will have public lighting on at the same time.
- Emphasise that the lighting requirements for training is not as stringent as needed for formal matches and there is latitude for design alteration.

6.2. Planning Authority Response

Confirms decision – reference to planners report.

6.3. Observations

National Parks and Wildlife Service, Dept. of Culture, Heritage and the Gaeltacht: Notes that the original planning application was not referred to them for comment, recommends that permission be refused on the grounds of the potential negative impacts on bat populations occurring in the adjacent Dodder Valley pNHA. Even if the floodlighting is restricted to certain months, it will still have a negative impact on the three species of bats identified in the bat survey in the autumn and spring. Any interference with potential mating roosts may only be carried out subject to obtaining a derogation licence from the Habitats Directive from the National Parks and Wildlife Service, and that no such licence application has been received. It expects that light sensitive bats such as the Daubentons's Bat would be detrimentally affected by the floodlighting proposals.

The application was referred to An Taisce, and the Heritage Council. No observations were received at the time of writing.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings.

- Introduction
- Land use and development principle
- Ecological Impact
- Material Contravention
- Other Matters
- Appropriate Assessment

7.2. Introduction

7.2.1. The existing playing pitch forms part of a larger landholding which accommodates the Victory Centre and associated surface car park. The Victory Centre is in use as a Church of Scientology and Community Centre. An ecology report was submitted with the planning application regarding the potential impact on bats a protected species and this issue formed the crux of the planning authority's assessment and decision to refuse.

7.2.2. As noted above the existing GAA playing pitch was granted permission on appeal to the Board in 2005 under ABP Ref. No. PL06S.209775, and therefore constitutes an existing and established use.

7.2.3. The proposed floodlighting consists of 6 No. installations at 15metres in height, to focus light where it is needed to enable the pitch to be used during the winter months, during evening times. The proposed lights have been designed to avoid

glare and shadowing on the playing grass surface. The lights are required to facilitate training by local clubs. The provision of floodlights will result in an average lux level of 260 lux across the site.

7.2.4. The Board should be aware that the planning authority has prepared a draft Part 8 - River Dodder Greenway Scheme which went on public display in Aug 2017. At the time of writing this report, it had not yet been adopted by the elected members.

7.3. There were no objections to the proposed development from residents to the west of the pitch. The internal departments of the planning authority such as Roads and the Environmental Health Officer had no objection to the proposed development. The Heritage Officer and Parks and Landscape Services Department did recommend a refusal.

7.4. **Land use and Development Principle**

7.4.1. The lands are zoned High Amenity Dodder Valley 'HA(DV): To protect and enhance the outstanding natural character and amenity of the Dodder Valley' within the current South Dublin County Development Plan 2016-2022.

7.4.2. Reason for refusal no. 1 refers to a material contravention of the land use zoning objective for the area, the intention of the proposed natural heritage area and policies in the County Development Plan.

7.4.3. Recreational Facility or Sports Club/Facility uses are 'Open for Consideration' in limited circumstances in existing premises, subject to an acceptable landscape impact assessment, and for small-scale amenity or recreational purposes. Specifically, all development classes are not permitted within 30m of the river bank, in order to protect recreational amenity.

7.4.4. The high amenity zoning objective is cited in the reason for refusal. However, I do not believe the principle of floodlighting of a playing pitch is contrary to the zoning objective. In fact, the illumination of recreational facilities and parks provides security and enables more intensive use of the high amenity areas for active and passive recreational purposes. Therefore, I consider the context of the proposed floodlighting, to facilitate the greater and extended use of a playing pitch is in line with the high amenity zoning.

- 7.4.5. I am satisfied that the existing playing pitch and proposed floodlighting can be considered as a small-scale amenity for recreational purposes in accordance with the criteria.
- 7.4.6. The site is well screened particularly along the western boundary and it is proposed to augment existing mature planting along the north-western boundary. Landscaping is dealt with in more detail below. The question then remains in respect to the proximity of the site to the adjoining Dodder River bank.
- 7.4.7. In relation to this matter, I note that the planning authority, and in particular the Councils Heritage Officer, has determined that the proposed development, which is located within 30m of the river bank, is unacceptable. The first party on appeal has, however, submitted a revised layout in terms of the number and location of the proposed floodlights. It is now proposed to omit two of the six floodlighting poles located on the south west of the pitch, in order to ensure a dark corridor of <3 Lux is maintained. In this regard also, Site Layout drawing no. A2-00-ABP submitted on appeal clearly delineates a 30m line set back from the top of the riverbank outside of which the remaining floodlights are proposed.
- 7.4.8. I consider, in view of the scale nature and location of the appeal site, that there is no principled objection to the development of the site for floodlighting and, therefore, it is appropriate to consider the proposal in its detail.

7.5. **Ecological Impact**

- 7.5.1. Reason for refusal No. 1 (b) cites that the proposed development would materially contravene the intention of the proposed natural heritage area.
- 7.5.2. The Dodder Valley proposed Natural Heritage Area pNHA (Site Code 000991) is located to the west and north of the appeal site. Part of the appeal site outlined in red on the north-western side of the boundary to the playing pitch is located within the pNHA, but the existing pitch and proposed lighting columns are located outside it. It is noted that the pNHA extends along a section of the Dodder River for a distance of approx. 2.2km from the Old Bawn Road to the south west to the M50 to the north east.

- 7.5.3. Reason for refusal No. 1 (c) also cites a number of policies which seek to protect and enhance the visual, recreational, environmental, ecological, and amenity value of the Dodder Valley and objectives relating specifically to pNHA and protecting habitats and species.
- 7.5.4. The second reason for refusal refers to the addition of a significant block of high intensity lighting in an extremely sensitive ecological area, which would have significant adverse impacts on protected bat species.
- 7.5.5. In particular, reference is made to the importance of the Dodder Valley for 7 of the 9 species of Irish Bats known in Ireland, which are listed in Annex II of the EU Habitats Directive.
- 7.5.6. Firstly, I note that the proposed development does not involve the removal of the habitat used by the species of bats within the Dodder Valley pNHA. The main concern of the Council's Heritage Officer is that the light spillage will result in disturbance to the bat's feeding areas. I note that of particular concern is that the bats may not have collected sufficient food before hibernation during the months of September/October. The floodlighting may attract moths and insects which is a food source to the bats. Both parties acknowledge that the bats are very active foraging near dawn when the lighting will not be in operation.
- 7.5.7. I note the content of the Bat Survey report carried out by Faith Wilson, Ecological Consultant and submitted with the planning application. I note the bat survey was carried out on 1st, 3rd and 4th August 2017, which is not exactly relevant to the pre-hibernating time of September-October. However, the Bat Survey report also includes the results of a previous bat survey carried out by Faith Wilson and Brian Keely in September 2015. This survey was carried out on behalf of the planning authority in the assessment of the potential impacts on bats caused by the lighting proposed along the adjoining section of the Dodder walking and cycling route.
- 7.5.8. I note the three species of bats found on and immediately adjacent to the subject site during the 2017 survey. Bat species recorded included Leisler's Bat, Soprano Pipistrelle and Common Pipistrelle. A high concentration of activity associated with the grove of mature Cypress/Cedar trees which form the boundary with the residential property located at the south-western corner of the site was also observed.

- 7.5.9. The Bat Survey report also assesses the potential for bat roosting within the trees present on the site for which remedial works are proposed. The survey carried out in August 2017 found that no roosts were confirmed, but that a number of Sycamore trees along the northern boundary of the site had roost potential.
- 7.5.10. Potential impacts arising from disturbance from lighting are noted in conjunction with the existing lighting impacts along the adjoining cycleway. Cumulative lighting impacts include the proposed Dodder Greenway (partially already in place at the rear of the Victory Centre) and the development of the Mount Carmel Sports Facilities at Firhouse. The assessment concludes that the floodlighting proposals for the GAA pitch combined with the existing lighting from the cycleway is likely to result in the displacement of three species of bats from foraging habitat in this area.
- 7.5.11. Mitigation measures proposed relate to preserving dark infrastructure for Bats, reducing the existing lighting levels on the adjoining cycleway, with lighting designed not to interfere with feeding or commuting and planting of vegetation. It is asserted that the planting along the northern and southern boundary of the site needs to be further augmented with native hedgerow species, which will further reduce lighting impacts from the adjoining cycleway, as well as providing foraging and commuting habitat for bats. Mitigation measures to protect bats during tree surgery works include the provision of two bat boxes to be erected on the mature sycamore trees along the northern boundary of the site under the supervision and direction of a licenced bat specialist.
- 7.5.12. Further proposals to mitigate any potential impact on the bat commuting and foraging paths in and around the site of the Victory Centre were submitted by the applicant on appeal. The lighting impacts of the proposed development were also reviewed, modelled and redesigned by the lighting consultants to the project IN2 Engineering Design Partnership. A revised arrangement now proposed omits the two most western poles, thus securing a dark corridor to the west of the pitch that connects to the dark corridor along the Dodder River. The remaining poles also have more controlled direction of lighting which reduces lux levels to 3 lux maximum at the boundary of the site, which is the recommended level for reduced impacts on bats. I have examined the revised modelled light levels and note in some locations levels are as low as 0 lux, and the majority as low as 1 lux. Achievement of these

levels is aided by the introduction of proposed new hedgerow to the western corner of the site.

- 7.5.13. It is also proposed to eliminate any bare bulbs and any light pointing upwards, and to reduce light spill so that light reaches only areas needing illumination. The lights are proposed to be limited to use until 9pm during the winter months, when the bats have reduced activity and in mid-winter are in hibernation. It is also noted that at the time of the bat survey existing public lighting on the adjoining cycleway was spilling into the Sports pitch, and that the planners report noted that recommendations in relation to achieving lower levels of a maximum 3 lux on the footpath have been achieved with amendments to the existing public lighting. In addition, it is proposed to restrict sports training to the eastern half of the site nearest the existing building. This will ensure that a more meaningful dark corridor will be maintained along the western boundary of the site.
- 7.5.14. The Heritage Officer in her report states that the proposed development would have a significant impact on protected species of Irish bats along the Dodder Valley, and that the proposal would be contrary to County Development Plan objectives regarding the protection of Natural Heritage Areas and species protected under the EU Habitats Directive. I note the report of the National Parks and Wildlife Service, and concerns raised in respect to potential negative impacts on bat populations occurring in the adjacent Dodder Valley pNHA and on the lands subject of the application.
- 7.5.15. The Parks and Landscape Departments of the planning authority recommended a refusal on the basis of the impact of the proposed floodlighting on bats in the area, but did not comment on the proposed planting along the western boundary of the site. I consider it appropriate to include a condition requiring the additional planting proposed to the boundaries to be agreed with the planning authority.
- 7.5.16. There are existing lighting columns within the grounds of the surface car park associated with the Victory Centre to the north east and along the pedestrian bridge and footpath to the northwest within the Dodder Valley Park. I understand the concerns of the planning authority in respect of the impact of the proposed floodlighting on the bat species in the area and the efforts to date to carry out bat surveys and modify lighting proposed within the park accordingly. However, the

applicant has permission for this playing pitch and proposals to upgrade the recreational facility by way of floodlighting to allow a more intensified use is considered reasonable. I also consider that the omission of two of the floodlights on the more sensitive part of the site will address concerns raised in relation to retaining a dark corridor.

- 7.5.17. The appellant contends that limiting the timing of the lighting to match that of the opening hours of the adjoining park is a reasonable measure given that the park will have public lighting on at the same time. I, would agree, and consider it reasonable to restrict the hours of floodlighting to 16:00 to 21:00 on any day, confined to the months of October to March only. I have consulted *Bat Mitigation Guidelines for Ireland* DOEHLG 2006 in this regard.
- 7.5.18. Notwithstanding the concerns of the National Parks and Wildlife Service, I consider that the amended proposal submitted on appeal, which omits flood lighting along the south-western end of the pitch, in a suburban location, would not be detrimental to the bats foraging areas. I would also consider that it would be appropriate that an assessment of the status of the bats in the area be carried out annually in conjunction with the requirements of the planning authority. In the event the floodlighting proves to be detrimental to the bats species within the Dodder Valley Park, then the nature of the operation of the floodlights can be reviewed.
- 7.5.19. In addition, I note the appellants reference to the wording of Reason No. 2 which it is claimed is contradictory, as refers to the ecological impact of lighting on bats and then concludes that the development would seriously injure the amenity of property in the vicinity. I would concur with the appellant on this matter and note that no submissions were received from residents in the area, and can confirm from my site visit that the adjoining property to the south (Kilininny House) is well screened from the sports pitch by mature evergreen trees.
- 7.5.20. I am satisfied that the applicant has demonstrated that further mitigation measures proposed will reduce lighting impacts on bats from the scheme. I consider, therefore, that there is no basis for reason no. 1(b) and 1(c) or the second reason for refusal.

7.6. **Material Contravention**

- 7.6.1. The decision of the Planning Authority states that the development (if permitted) would materially contravene the zoning objective for the area and policies set out under HCL10, HCL10 Objective 1, HCL13 Objective 1 and HCL13 Objective 2 HCL15 Objective 1, G2 Objective 3, and G4 Objective 4 of the South Dublin County Development Plan 2016-2022.
- 7.6.1. In this context, if the Board are minded to grant permission for the proposed development Section 37(2) of the Planning and Development Act 2000 must be considered. Section 37(2) requires that if the Planning Authority have decided to refuse permission on the grounds that a proposed development materially contravenes the Development Plan plan, the Board may only grant permission in certain circumstances.
- 7.6.2. However, I do not share the view of the Planning Authority that the development would materially contravene the development plan for the area. The policies referenced in the reasons for refusal are general policies rather than policies which specifically relate to the appeal site. In addition, the site is zoned 'HA(DV): To protect and enhance the outstanding natural character and amenity of the Dodder Valley' under the County Development Plan. The proposal would not materially contravene this zoning objective. Accordingly, I do not consider that the proposed development as amended on appeal, if permitted, would materially contravene the applicable development plan. Section 37(2) of the Act, therefore, requires no further consideration.

7.7. Other Matters

- 7.7.1. *Signage* – I note that the public notices refer to the erection of signage on the Firhouse Road and on the Dodder Valley Greenway. However, I can see no details on file in relation to the design and precise location of same.
- 7.7.2. I note also the most recent decision of the P.A. Reg. Ref. SD17A/0248 which related to the retention of signage at the entrance to the appeal site and condition attached restricting further signage in the interest of visual amenity.
- 7.7.3. I recommend, therefore, that if the Board are minded to grant permission, that signage should be omitted by way of condition.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed lighting to serve an existing sports pitch, the pattern of development in the area, and the provisions of the South County Development Plan 2016-2022, including the high amenity zoning objective for the area, with the stated objective to protect and enhance the outstanding natural character and amenity of the Dodder Valley, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of protecting bats and their habitats, would not seriously injure the visual amenities of the area or detract from the outstanding natural character of the area and amenity of the Dodder Valley. 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 with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to An Bord Pleanála on 8th of November 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. A bat survey shall be undertaken annually at the site of the proposed floodlights, for a period of three years following commencement of operation of the development. The survey shall be undertaken by an ecologist with appropriate qualifications, training and experience in bat surveys, and shall be undertaken in accordance with the provisions of the “Bat Mitigation Guidelines for Ireland – Irish Wildlife Manuals No. 25”, issues by the Department of the Environment, Heritage and Local Government (2006) or any document that might supersede it. Surveys shall incorporate appropriate time periods during which the development is in operation and otherwise. The survey reports shall be submitted to, and agreed in writing with, the planning authority within three months of completion of each annual survey.

Reason: To monitor bat species in the area during times of activity.

3. The proposed floodlights shall not operate outside the hours of 16:00 to 21:00 on any day, and shall be confined to the months of October to March only.

Reason: To protect bats in the area during times of activity.

4. Prior to commencement of development, a landscaping scheme shall be submitted to the planning authority for agreement. This scheme shall include details of all existing trees and hedgerows on the site, specifying those proposed for retention, together with measures for their protection during the period in which the development is carried out. The scheme shall include screen planting along and on either side of the boundary to the north west of the G.A.A. pitch.

Reason: In the interest of visual amenity.

5. Any further external signage proposed shall be the subject of a separate

planning application.

Reason: In the interests of clarity.

Susan McHugh
Planning Inspectorate

27th March 2018