



An  
Bord  
Pleanála

## inspector's Report ABP-302504-18

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<b>Development</b>	Change of use of existing playground to a landscaped entrance court, new vehicular access, landscaping and parking area to serve previously approved Residential & Office Development and facilitate access to riverside walkway.
<b>Location</b>	Dartry Mills/North House, Dartry Road, Dublin 6, D06 E030
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	2672/18
<b>Applicant</b>	Michael Brown
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Richard Good
<b>Observers</b>	Rathgar Residents Association
<b>Date of Site Inspection</b>	8 <sup>th</sup> February 2019.
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1.1. The site is located at a bend on the River Dodder at Dartry Mills/North House, Dartry Road, Dublin 6. Dartry Mills is a complex of buildings and a yard area which were once associated with Dartry Dye Works and which include buildings currently occupied by an Architects firm and a 2 storey Victorian red brick building known as North House, previously the Dye Works Office, now a Montessori, school/preschool, which is a protected structure. The subject site is on the downstream side of the mill site and where the river bank is steep and densely vegetated, in a narrow corridor between the river and Milltown Road. A weir further downstream about half way between the site and the Dropping Well public house and restaurant marks a transition, to a wider flatter bankside at Temple Park. The subject site has been altered by use of part as a playground for the Montessori, the recent removal of vegetation and waste, and the recent use of part as a temporary builders depot.
- 1.1.2. The site is located along a cul de sac road, Dodder Walk, which extends from the Milltown Road/Dartry Road to the River Dodder. The cul de sac joins Milltown Road/Dartry Road on a bend at a forked junction with a traffic island. The cul de sac is short, sloping steeply towards the R Dodder with Dartry Mills on one side and Dartry Cottages and woodland/parkland on the other. At the end the cul de sac meets the left bank of the R Dodder.
- 1.1.3. A yard at the southern end of the building complex includes access to a bridge over the river, directly opposite the road access to the site. This bridge is currently closed off. Along this section of the Dodder, including along the site and associated lands, the bank is supported by sheet piling, which extends above ground level.
- 1.1.4. A narrow portion of the subject site is at road level, and the remainder slopes steeply north west to south east, towards the river. The site overlooks the River Dodder and Milltown Golf Course on the opposite bank.
- 1.1.5. In addition to the existing uses on the associated properties there is an extensive planning history, attached to those lands, including that referred to in the notices for the subject application, planning authority Reg Ref 3208/16.
- 1.1.6. The site is given as 135m<sup>2</sup>, and includes land within the ownership of Dublin City Council, in respect of which a letter of consent to the application has been provided.

## 2.0 Proposed Development

- 2.1.1. The proposed development is the change of use of an existing playground serving the Montessori school/preschool, and a section of the river bank currently in temporary use as a builder's yard, to a landscaped entrance court with a new vehicular access, landscaping and parking area to serve previously approved residential & office development, and the provision of access to a yet to be developed riverside walkway.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The planning authority decided to grant permission subject to 7 conditions, including:
- 1) Insofar as the Planning & Development Act 2000 (as amended) and the Regulations made there under are concerned the development shall be carried out in accordance with the plans, particulars and specifications lodged with the application, as amended by the Further Information received on 16/7/18, save as may be required by the conditions attached hereto. For the avoidance of doubt this permission shall not be construed as approving any development shown on the plans particulars and specifications, the nature of which has not been adequately stated in the statutory public notices.
  - 2) Apart from departures hereby permitted, and subject to restrictions as set out in conditions of this permission, the development shall be carried out in full in accordance with the terms, conditions and duration of PI Ref: 3208/16.  
Reason: To protect residential amenities of the area.
  - 3) Prior to commencement of any development works on site, the developer shall submit details of SuDS, which should be integrated with the landscaping proposals as per the Dublin City Development Plan 2016-2022.  
Reason: In the interests of proper planning and sustainable development of the area.
  - 4) Vehicles exiting the site shall be restricted to left turning movements only. Prior to commencement of development the developer shall submit revised plans for

the written agreement of the Environment and Transportation Department which illustrate the provision of traffic management measures which shall be put in place at the proposed vehicular entrance/exit to the site which restrict right turning movements from the site.

b) The 2no car parking spaces shall be permanently allocated to residential use only. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties.

c) Parking within the site shall be limited to a maximum of 2 no spaces at all times. No other parking or set down shall take place within the site. All turning movements shall take place within the site and vehicles shall exit the site in a forward motion only.

d) The layout and configuration of car parking indicated within the overall site on Drawing no. 3.8-104A is unacceptable. Prior to commencement of development the applicant shall submit a revised parking layout for the overall site which maintains a clear and unobstructed right of way through the site and which reduces the potential for reversing movements onto the adjoining road network.

e) A clear and unobstructed right of way shall be maintained through the application site to the new boardwalk. Prior to commencement of development, the developer shall agree in writing with Dublin City Council the hours of public access to the proposed boardwalk.

f) Prior to commencement of development the developer shall liaise with the Environment and Transportation Department and agree in writing proposals for access to the Dodder Greenway.

g) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

h) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In the interests of traffic safety

- 5 Construction hours.
- 6 Construction noise.
- 7 Construction road cleaning.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

3.2.2. There are two planning reports on the file. The first recommending a request for further information on 5 points (which issued), includes:

- Zoned Z6, lands located to the south on the edge of the R Dodder and on the eastern portion of the site are zoned Z9 which is “to preserve, provide and improve recreational amenity and open space and green networks”.
- Site history is listed.
- Under Planning Register Reference: Plan No. 3208/16: Planning permission was granted for construction of structure and boardwalk with the development to be served by two new pedestrian accesses/entrances together with all associated site works. The current proposed development seeks removal of existing play area and the creation of entrance court, new vehicular access, landscaping and parking area. The proposal will include landscaping of the steep bank and removal of high perimeter fencing. The proposed car parking space, access point, landscaping plan are all acceptable and relatively minor as proposals in of themselves. It is however unclear how the loss of the landscaped play area will impact on the operation of the adjoining Montessori play/crèche facility. No reference is made in the written submission accompanying the proposal on the background relationship between the two sites and their interdependence or lack of. It is considered reasonable that the applicant be invited to explain this. The applicant should be requested to submit further information with respect to how the proposed development, specifically the loss of the existing outdoor play area for the existing Montessori play/crèche facility, would affect the operation of that facility.
- Planning permission is currently being sought (under Planning Register Reference 2674/18) for amendments to previously approved Planning Reg. Ref. 3898/15 & 3208/16 for alterations and change of use of permitted reconstructed mill building to 678m<sup>2</sup>; consisting of three floor levels and terraces, revised floor levels and facade changes; providing Science & Technology (124m<sup>2</sup>) use on one level; providing residential in one 1 bedroom and one 3 bedroom apartment 554m<sup>2</sup> and change of use of existing playground to a landscaped entrance court; incorporation

of change of use to Montessori classroom under planning Reg. Ref. 3394/16 and approved demolition of existing structures, construction of structure, part change of use to Montessori and boardwalk works approved under Planning Reg. Ref.3895/15. The proposed building will be served by two pedestrian accesses/ entrances together with all associated site works.

3.2.3. Recommending a request for additional information. which issued.

### 3.3. Other Technical Reports

3.3.1. Roads & Traffic Planning Division

The report, recommending a request for additional information (included in the request which issued), includes:

- The proposed access will be 3.6m wide. While it is acknowledged that the access will only serve 2 no. parking spaces, having regard to the nature and layout of the adjoining road this division has concerns regarding the visibility at the proposed access. As such it is considered that the applicant should be requested to demonstrate that sightlines to appropriate standards can be achieved at the proposed access.
- It is noted that 2 no. car parking spaces were permitted as part of Reg. Ref. 3208/16. It is not clear whether it is intended to retain these car parking spaces along with the 2 no. proposed as part of this application. The applicant should be requested to clarify this matter and clarify what use the proposed spaces will serve and how the spaces will be managed.
- The proposal to facilitate access to the walkway via the proposed landscaped area is noted. It is noted that a third party submission received indicates that there should be unrestricted access to the walkway through the site. The applicant should be requested to clarify whether this access will be publicly accessible and if so, whether a right of way will be provided through the site to the walkway and the hours of public access to same. The applicant should also be requested to demonstrate how the development is facilitating access to the Dodder Greenway.

3.3.2. Drainage Division, Engineering Department

The report, recommending a request for additional information, includes:

- Due to the lack of adequate drainage information it is not possible to state that satisfactory drainage can be provided for this development. Permission should be withheld until satisfactory drainage information is submitted and approved. The applicant shall consult with the Drainage Division of Dublin City Council prior to the submission of revised plans to ensure all drainage issues are addressed.
- The developer shall submit an appropriate flood risk assessment for the proposed development, which identifies and proposes solutions to mitigate the potential risks from all sources including coastal, fluvial, pluvial and groundwater. Reference should be made to the DEHLG/OPW Guidelines on the Planning Process and Flood Risk Management published in November 2009 and the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment. Flood risks from 30-year and 100-year storms shall be addressed. In particular, reference should be made to the proposed finished level of the boardwalk and details of how the boardwalk will be managed during a flood event in relation to access and user safety. The developer shall confirm in writing to the Drainage Division that the development has been designed such that the risk of flooding to the development has been reduced as far as is reasonably practicable, and that the proposals do not increase the risk of flooding to any adjacent or nearby area (over the risk of flooding from a greenfield site).
- The developer shall submit revised section drawing titled “Site Section 01 – Proposed clearly indicating the existing and proposed levels and gradients on site.
- The developer shall submit details of SuDS, which should be integrated with the landscaping proposals as per the Dublin City Development Plan 2016-2022.

### 3.4. **Further information**

3.5. A request for additional information. Issued on the 29<sup>th</sup> May 2018:

1 The applicant is requested to submit further information with respect to how the proposed development; specifically the loss of the existing outdoor play area for the existing Montessori play/crèche facility would affect the operation of that facility. In this regard the applicant is invited to address the historical (if any) legal ownership between the adjoining site (Montessori play/crèche facility) so as to provide

evidence that the granting of the current proposal does not result in the undermining or splitting of any previous grant of permission for the adjoining crèche facility.

2. The applicant is requested to demonstrate that sightlines, to appropriate standards, are achievable at the proposed entrance.

3. The applicant is requested to clarify the total number of car parking spaces that will be provided on the overall site and to clarify how it is intended to assign spaces and segregate spaces by use. The layout of the car parking spaces within the subject site should be clearly indicated on the site layout plan. The position and dimensions of these spaces shall also be clearly indicated.

4. The applicant is requested to clarify whether the access to the walkway will be publicly accessible. Where the access will be publicly accessible the applicant is requested to submit a revised site layout plan which outlines a right of way (to be outlined in yellow) through the application site to the walkway. The applicant is also requested to indicate the hours of public access through the site to the walkway.

5. The applicant is requested to demonstrate how the development is facilitating access to the Dodder Greenway.

3.5.1. Further information was submitted on the 16<sup>th</sup> July 2018, which included:

- An explanation that an extension and play area had been built to the creche.
- Showing provision of sightlines, which has required moving the entrance.
- The total number of parking spaces are shown; existing are all related to the existing offices on site, two new spaces are solely allocated to proposed residential units, i.e. two parking spaces will be provided.
- The walkway which was previously approved under 4274/05, 4549/15. 3898/15 and 3208/16 will be publicly accessible. A revised site layout plan outlining a right of way and coloured yellow through the application site to the walkway is enclosed (proposed site plan – 15-054-3.8-105 rev A and site plan proposed 15-054-3.8-104 rev A). The hours of public access through the site to the walkway will be the same as the opening hours for the riverside walkway and agreed with DCC: permission 3208/16, condition no 4, states 'hours to be agreed with DCC'.



- Buildings have been located on the banks of the river Dodder at Dartry Mills since the late eighteenth century. The existence of these buildings has been an impediment to extending the Dodder Greenway alongside the river at the Dartry Mills site. Following the collapse of the Mill building on the site in 2004 permission was granted for the rebuilding of the building together with a riverside walkway (Reg Ref 4274/05). Subsequent permissions are listed. Current applications: reg ref. 2051/18 alterations and additions to a permitted science & technology and residential (previous 3208/16); 2674/18 alterations and additions to a permitted science & technology and residential (previous 3898/15 & 3208/16).
- The initial permitted development solely for office use proved not to be commercially viable. Permission was sought for change from office to residential, 3208/16. Banks from whom lending was sought insisted on a separate access to the residential element not linked to the commercial element. The viability of completing the residential development and the public walkway is dependent on the development having a separate access and related parking.

### 3.6. Further Reports

3.7. The second planning report recommending permission, includes:

3.7.1. Response to the further information request:

3.7.2. They have confirmed that as part of a previous permission on site a new play area with an improved aspect was constructed for the use of the Montessori/crèche facility, together with a new crèche classroom. This new extension and the existing operate as a single entity. The applicants indicate that this proposal is required to facility objectives of the City Plan required by previous permissions; such as facilitating access to a public walkway.

The applicants have responded to Items 2-5 as requested by Roads and Traffic Planning Division. It is noted to achieve sightlines, vehicular access has been relocated in an easterly direction. The Roads and Traffic Planning Division raise no further issues with the proposed development.

3.8. Roads & Traffic Planning Division

Re sponse Item Nos. 2 – 5

Item 2 - In order to achieve sightlines the applicant proposes to relocate the proposed site access further east. Revised drawings showing the relocated site entrance have been submitted. 2 no. sightline drawings have also been submitted showing 70m and 90m sightlines to the east at the kerb line and set back 2.4m from the kerb line. Achieving sightlines to the east will require partial realignment of the stone wall to the east. It is noted that this wall is not included within the red or blue line boundary and appears to be within the control of Dublin City Council (DCC). It is noted that sightlines to the west have not been indicated on the submitted plans. It is considered that sightlines to the west would be restricted. In this regard, a condition should apply restricting vehicles exiting the site to left turn movements only. As a result vehicles wishing to turn right will have to utilise the existing traffic island to make right turning movements. A condition should apply requiring revised drawings to be submitted for written agreement indicating traffic management measures which will be put in place at the entrance to restrict right turning movements from the site.

Item 3 - In response to Item 3 the applicant indicates that there are 9 no. existing car parking spaces within the overall site which will be retained to serve the existing offices. The 2 no. spaces proposed as part of this application will serve the residential units previously granted.

This division has concerns regarding the haphazard layout of spaces 1-9 as indicated on the submitted drawings and the consequent reversing movements onto the adjoining road arising from same. The layout of the spaces as shown furthermore contravene conditions on the parent permission pertaining to the overall site which relate to the provision of a clear and unobstructed right of way through the site. The layout of parking shown within the overall site is unacceptable to this division in this regard. Having regard to the existing haphazard parking arrangements on site this division has concerns regarding the potential for similar haphazard parking taking place within the application site and consequent reversing movements onto the adjoining road. A condition should apply which limits parking within the site to a maximum of 2 no. vehicles with turning movements taking place strictly within the application site. The parking spaces shall furthermore be assigned to permanent residential use.

Item 4 - The applicant indicates that the walkway which was approved under Reg. Ref. 4274/05, 2549/15, 3898/15 and 3208/16 will be publicly accessible. A revised site layout plan has been submitted which indicates a right of way through the application site to the walkway. This will require a connection through adjoining Dublin City Council lands to the public road. The applicant indicates that the hours of public access through the site to the walkway will be the same as the opening hours for the walkway which were previously agreed with Dublin City Council. However, there does not appear to be any record of written agreement in relation to opening hours. A condition in this regard should apply accordingly.

It is noted that previous permissions on the overall site required a clear and unobstructed right of way to be maintained through the southern part of the site to the new boardwalk. The right of way proposed under this application should not be considered to be a replacement of the right of way indicated as part of previous applications.

Item 5 - In response to Item 5 the applicant indicates that the financial viability of the development, and as a result the delivery of the public walkway, is dependent on the development having a separate access and related car parking for the residential units. The applicant indicates that this permission will enable the residential element to proceed and will enable the provision for the extension of the Dodder Walkway at Dartry Mills and the construction of the access to the Dodder Greenway. As outlined above it is noted that previous applications indicated that a right of way should be maintained through the southern part of the site to the new boardwalk and a condition applied requiring this right of way to be kept clear and unobstructed. It is noted that spaces 7 and 8 as indicated on Drawing No. 15.054 3.8.105 Rev A appear to block this right of way to the boardwalk. Dublin City Council is currently developing a proposal for the Dodder Greenway. It appears to this division that the development proposed within the application site would not prohibit the delivery of the Dodder Greenway.

This division has no objection to the proposed development subject to the following conditions: -

1. Vehicles exiting the site shall be restricted to left turning movements only. Prior to commencement of development the developer shall submit revised plans for the written agreement of the Environment and Transportation Department which

illustrate the provision of traffic management measures which shall be put in place at the proposed vehicular entrance/exit to the site which restrict right turning movements from the site.

1. The 2 no. car parking spaces shall be permanently allocated to residential use only. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties.
2. Parking within the site shall be limited to a maximum of 2 no. spaces at all times. No other parking or set down shall take place within the site. All turning movements shall take place within the site and vehicles shall exit the site in a forward motion only.
3. The layout and configuration of car parking indicated within the overall site on Drawing No. 3.8.104A is unacceptable to this division. Prior to commencement of development the applicant shall submit a revised parking layout for the overall site which maintains a clear and unobstructed right of way through the site and which reduces potential for reversing movements onto the adjoining road network.
4. A clear and unobstructed right of way shall be maintained through the application site to the new boardwalk. Prior to commencement of development, the developer shall agree in writing with Dublin City Council the hours of public access to the proposed boardwalk.
5. Prior to commencement of development the developer shall liaise with the Environment and Transportation Department and agree in writing proposals for access to the Dodder Greenway.
6. All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
7. The developer shall be obliged to comply with the requirements set out in the Code of Practice.

### **3.9. Third Party Observations**

- 3.9.1. Third party observations on the file have been read and noted.

## 4.0 Planning History

**302539** PA Reg Ref 2674/18: Amendments to previously approved Planning Reg. Ref. 3898/15 & 3208/16 for change of use of mill building to 678m<sup>2</sup>; consisting of 3 floor levels, revised floor levels; providing Science & Tech use on one level; residential in one 1 bedroom & one 3 bedroom apartment & change of use of playground to entrance court; incorporation of change of use to Montessori classroom & demolition of existing structures, construction of structure, part change of use to Montessori and boardwalk works, decision to grant; an appeal in respect of condition no. 2 / development charge was withdrawn.

**2051/18**: Alterations and Additions to a permitted Science & Technology and Residential development (740.1m<sup>2</sup> approved Planning Permission Reg. Ref.: 3208/16) to 816m<sup>2</sup>: consisting of the additional floor area (75.9m<sup>2</sup>), to the Permitted Residential Unit (Apartment 2), over two floor levels with a flat roof terrace over, and facade changes; together with all associated site works, granted.

**3394/16**: Application for change of use of archive office (approved Planning Permission register reference No. 3898/15) from science & technology use to crèche/Montessori school use including alterations from permitted 89.6m<sup>2</sup> to 76.55m<sup>2</sup>, comprising first floor classroom, staff / childcare facilities, staircase, new windows to the north-east and south-east facades, reconfigured roof light external landscaped play area to roof level for use by the existing Montessori facility at Former Dartry Dye Works offices (a Protected Structure ref. no:2237), to which no works are proposed and associated site works.

**3208/16**: Planning permission was granted for Alterations and Change of Use of permitted reconstructed mill building (296.6m<sup>2</sup> approved Planning Permission Reg.Ref:3898/15) to 740.1m<sup>2</sup>: consisting of a change of use of part permitted Science & Technology use to Residential use (102.2m<sup>2</sup>) and alterations including: three floor levels (including addition of intermediate floor) with a flat roof, revised floor levels, increased unit widths, removal of roof lantern, and facade changes: providing Science & Technology use (397.7m<sup>2</sup>) over three levels; two no. three-bedroom two storey apartments (342.4m<sup>2</sup>) and two no. roof stair enclosures (25.8m<sup>2</sup>); incorporation of approved demolition of existing structures, construction of structure and boardwalk works approved under Planning Reg. Ref: 3898/15 and

currently under construction; the proposed building will be served by two new pedestrian accesses/entrances together with all associated site works.

Planner's report includes with reference to zoning:

It is noted that a portion of the site to its River side (Southern) edge is located within lands zoned Z9 which is "to preserve, provide and improve recreational amenity and open space". I note that residential use is not permitted on lands zoned Z9. The applicant shall therefore be advised that any residential use proposed must be located within lands zoned Z6 which is to provide for the creation and protection of enterprise and facilitate opportunities for employment creation and where residential use is Open for Consideration. The applicant shall provide clear evidence in revised plans received that any revised residential use proposals are located entirely within such zoning.

**2755/16:** AI requested and the application subsequently withdrawn for change of use of archive office (approved planning permission Register Reference No. 2549/15 (amending 4274/05 as extended in duration by 4274/05x1) from Science & Technology use to Crèche/Montessori School use, including alterations from permitted 89.6m<sup>2</sup> to 76.55m<sup>2</sup>; comprising first floor classroom, staff/childcare facilities, staircase, new windows to the north-east and south-east facades, reconfigured roof light, external landscaped play area to roof level and all associated site works.

**3898/15:** Permission granted for a development comprising the partial demolition and reconstruction of an existing collapsed mill building to provide a two storey building with pitched roof above (with a ridge height of approximately 37.3 m), comprising 296.6 sq.m of science and technology floor space over two levels, together with the reconstruction and raising of the floor level and flat roof with lantern above of the existing archive building by approximately 1.2 m in height to provide an additional 52.4 sq.m of science and technology floor space at ground level in an integrated fashion at the rear (north-east) with the proposed two storey building. A total of 349 sq.m of new science and technology floor space are proposed. The proposed building will be served by two new pedestrian accesses / entrances. One to be provided from the existing street level car park area; and the second via an existing pedestrian walkway / bridge leading to the existing office building via the proposed raised roof terrace level (above the existing archive

building) together with all associated site works. A publicly accessible boardwalk overhanging the River Dodder is proposed (at level 26.85m) to the front of the building along the river's edge.

**2549/15:** Planning permission granted for development consisting of amendments to the previously granted development under Planning Ref. 4274/05 (as extended in duration under planning Ref. 4274/05/x1) for the partial demolition and reconstruction of a partially collapsed building, for science and technology uses.

The proposed amendments comprise the extension of the permitted building along with associated external and internal changes. External alterations and extensions comprise

(1) an increased depth and width of the permitted building to increase the permitted floor area of 155.53 sq.m. (82.94 sq.m at ground floor level and 72.59 sq.m at first floor level) to a gross floor area of 306.4 sq.m (comprising 26.2 sq.m of additional floor area at ground floor, plus the amalgamation of 127 sq.m of existing ground floor storage area with the new ground floor area, and an additional 80.3 sq.m of floor area at first floor level);

(2) Raising of flat concrete roof, over existing archive storage roof, to form a new podium access deck to first floor level;

(3) Raising the main ridge height of the permitted building by 880mm from a permitted level of 36.42 to provide a new uniform ridge at a height of 37.30m, 100mm above the ridge height of the permitted 3 no. roof lanterns;

(4) Re-design of the main elevations of the building to alter the design and appearance - i.e. external staircase to eastern elevation, fenestration pattern, access and new balconies;

(5) Provision of additional access at ground floor level. Internal alterations include lowering first floor level by approximately 1.35m from a permitted level of 31.65m to 30.30m.

The permitted use of the building will remain unchanged.

**4274/05:** a time extension was granted for this planning permission, ref. 4274/05x1, for 5 years in October 2011, whereby planning permission was previously granted for the partial demolition and re - construction of a partially collapsed building for science and technology uses on a site of 121.5sqm at Dartry Mills, Dartry Road, Dublin 6. The site is generally bounded to the east by the river Dodder. The

development comprises of the removal of the remaining part of the partially collapsed building and the re-construction of 1 no. units consisting 155.53 sqm gross floor area of science and technology use with ancillary facilities and all associated site and landscaping works. The building consists of 2 no. storeys of 9.15 metres height from ground floor level. The ground floor comprises 71.07sqm gross floor area of science and technology uses with ancillary facilities and a separate store area of 11.87sqm gross floor area. The first floor comprises 72.59sqm gross floor area of science and technology use. Access is provided via 3 entrances at ground level and one entrance at first floor level. The proposed new development adjoins an existing building comprising 55.16 sqm gross floor area of archive storage use / office use which is part of existing offices at Dartry Mills, Dartry Road, Dublin 6.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Dublin City Council Development Plan 2016 to 2022 is the operative plan. Relevant provisions include:

Zoned **Z9 Amenity/Open Space Lands/Green Network** To preserve, provide and improve recreational amenity and open space and green networks.

The site adjoins a protected structure and is within a conservation area.

14.8.9

The zoning includes all amenity open space lands which can be divided into three broad categories as follows:

- Public open space
- Private open space
- Sports facilities in private ownership

The provision of public open space is essential to the development of a strategic green network. The chapters detailing the policies and objectives for landscape, biodiversity, open space and recreation and standards respectively, should be consulted to inform any proposed development (see Chapter 10 – Green



Infrastructure, Open Space and Recreation, and Section 16.2 – Design, principles and standards). Generally, the only new development allowed in these areas, other than the amenity/recreational uses, are those associated with the open space use. The continuation of sports clubs and facilities to enhance sustainable city living is recognised. In highly exceptional circumstances, in order to serve the long term retention and consolidation of the sporting facility in a locality and to secure the primary sporting land use on the site, some limited once off development is open to consideration. Specifically, residential development shall not be permitted on public or privately owned open space unless exceptional circumstances are demonstrated. In certain specific circumstances where it has been demonstrated to the satisfaction of the planning authority that there is a need for ancillary development to take place in order to consolidate or retain the sporting and amenity nature of Z9 lands or an existing facility in a local area, some limited degree of (residential/retail) development may be permitted on a once-off basis and subject to the primary use of the site being retained for sporting or amenity uses.

In all cases the applicant shall be the sports club owner/occupier.

14.4 Uses not listed under the ‘permissible’ or ‘open for consideration’ categories will be deemed not to be permissible uses in principle in zones Z1, Z2, Z8, Z9, Z11 and Z15. Other uses will be dealt with in accordance with the overall policies and objectives in this plan.

14.7 Transitional Zone Areas The land-use zoning objectives and control standards show the boundaries between zones. While the zoning objectives and development management standards indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and use zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones.

(Paragraph 10.5.4) River walks and cycleways, where appropriate, can be developed in the riparian zone if sensitively designed and implemented in

consultation with Inland Fisheries Ireland. The creation and/or enhancement of riparian buffer zones is recommended where possible because, if sufficiently large and managed appropriately, these will maintain or create habitats necessary for fish and other aquatic life, filter out pollutants and sediments from over-land surface run-off, provide significant amenity and recreational value, and enhance flood management.

G13 To develop linear parks, particularly along waterways, and to link existing parks and open spaces in order to provide green chains throughout the city. Where lands along waterways are in private ownership it shall be policy, in any development proposal, to secure public access along the waterway.

G15 To protect, maintain, improve and enhance the natural and organic character of the watercourses in the city, including opening up to daylight where safe and feasible. The creation and/or enhancement of riparian buffer zones will be required where possible. It is the policy of Dublin City Council to maintain and enhance the safety of the public in its use and enjoyment of the many public parks, open spaces, waterways and linkages within the city.

G1021: To co-operate with the relevant adjoining local authorities of Dún Laoghaire–Rathdown and South Dublin Councils in developing a strategy for the preparation and graduated implementation of an integrated Maintenance, Improvement and Environmental Management Plan for the entire length of the River Dodder and to support the establishment of a co-ordinating River Dodder Authority or equivalent body to implement that strategy. This plan should reflect the relevant recommendations of the Eastern Catchment Flood Risk Assessment and Management and associated Unit of Measurement Flood Risk Management Plan(s) and associated Environmental Reports.

G12: To ensure equality of access for all citizens to the public parks and open spaces in Dublin City and to promote more open space with increased accessibility and passive surveillance where feasible.

Policies in relation to conservation areas and protected structures, including:

CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

## **5.2. Natural Heritage Designations**

- 5.2.1. The nearest Natura sites are North Dublin Bay SAC (Code 000206) and South Dublin Bay SAC (Code 000210) which are in excess of 3km, straight line distance, from the subject site.

## **5.3. Environmental Impact Assessment**

- 5.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. This is a third party appeal by Richard Good against the planning authority's decision to grant permission. The grounds includes:

- The development would contravene a number of policies and guidelines of the Dublin City Development Plan 2016-2022 and be contrary to the principles of proper planning and sustainable development.
- It would materially contravene site zoning; involving a change use of existing playground and adjoining public lands.
- The proposed riverside walkway access is inappropriate and inadequate. An entrance court and parking area is already provided in the previously approved Reg. Ref. 3208/16.
- It would result in loss of valuable habitat and diminish the Conservation Area of the River Dodder. It would diminish the protected structure North House. The site is in a highly sensitive location, beside Dartry Mills and all the concerns listed have serious and significant precedental implications for the proper protection and conservation of habitat and heritage.
- These objections constitute substantive grounds for refusal. DCC was mistaken in its assessment and failed to address these objections.
- The entire lands of this site are in the ownership of DCC who have provided a letter of consent.
- As seen in the existing ground floor plan (drg 3.8-102) the playground occupies one third of the site; the remainder is natural riverbank, in use as a temporary access.
- The site is zoned Z9 as shown on map H of the development plan.
- No reference is made to the zoning in the planner's report on the proposal. It states that it is zoned Z6. This is an error, it is evident that the Z9 area begins at the edge of North House. The uses are neither permissible, nor open for consideration and the development is a material contravention.
- While the proposed pedestrian access path would be permissible, it occupies only one quarter of the site.
- The description is in error. Change of use is sought only for the existing playground, it should have included existing riverbank.

- The site is part of important riverside natural habitat and wildlife corridor extending to the weir and Dartry Park East, with Dartry Mills and North House at one end and Classon's Weir (c1760) at the other. It is a landscape heritage area and should remain in public ownership. Its loss would set an unacceptable precedent.
- The existing play area for the creche is open for consideration, the change to use to an entrance court and parking area would be inappropriate as well as a material contravention.
- The approved design for the riverside boardwalk does not have a gate or means of restricting access – appendix 4 - proposed ground floor site plan drg 3.5-100 Rev B, from 3208/16Fl.
- A gate is proposed at the walkway access from Milltown Road even though the first 8m of the walkway from Milltown Rd is outside the site on public lands. There appears to be a 2.4m high fence between this walkway and the proposed car parking area, for the 8 maintenance access steps, and for the next 11m westwards towards the steps.
- Since the steps would also be outside any adjacent development, there are no grounds for the proposed restricted access which would limit use, particularly for anglers.
- It is noted that the site section drawings refer to the steps as proposed service maintenance access steps. The steps are just 1.3m wide with a steep gradient rising to 7m in 12 m length. They would exclude the elderly, physically challenged and cyclists carrying bicycles. No details of materials, step dimensions or construction etc, have been supplied.
- The proposed walkway would not comply with the stated objective of facilitating access to the approved boardwalk (3208/16).
- The proposed use as an entrance court and private parking area would be a material contravention. It is stated to be to serve a previously approved development. That development 3208/16 has an approved entrance and parking area. See drg 3.5-100 Rev B, AI for 3208/16 and proposed access plan drg 3.5-121, 3208/16. The planning report did not address this issue.

- Condition 4(d) refers to unsatisfactory parking arrangements. 3208/16 now has 4 approved parking spaces. The original approval should take precedence.
- Temporary access included land to the existing pallisade fence; an area of undisturbed habitat over centuries.
- The land should remain in public ownership and be restored under the supervision of Parks and the advice of NPWS once the period of temporary access has ended. It has been of 3 years to date, in that period the original natural vegetation has been seriously compromised including on the adjacent embankment to North House.
- The temporary access retains more or less its original shape.
- It is proposed to install a boulder wall to support a platform extension of the site beyond the top of the existing embankment towards the river for the first 5m. The boulder wall would be 2.3m in height and the area supported by this platform would be almost one third of the site. It would facilitate an inappropriate car park, reduce natural habitat, be out of character and visually obtrusive from the proposed boardwalk and impact negatively through vehicular access.
- The protected structure would be impacted, contrary to CHC2; the natural habitat has been and should continue to be part of the curtilage of North House.

## 6.2. Applicant Response

6.2.1. Reddy Architecture & Urbanism have submitted a response on behalf of the applicant, which includes:

- The redevelopment of the site, consequent on the collapse of the previous structures on the site, is the subject of a detailed planning history, including grants of permission from ABP and the development has now commenced.
- The appeal is revisiting a number of issues of principle and detail, that have been determined in the established planning history and permitted and under construction development. A principal objective is to enable the implementation of the long-standing development plan objective to provide a major public amenity along the Dodder river bank.

- Applicants have carried out a series of related developments including towards providing an improved playground and providing a riverside walkway along one of the last inaccessible sections of the River Dodder. Drg 15-054-3-8.107 Rev A refers. The proposed development in providing a riverside green route and restoring the landscaping of the riverside embankment is an exemplar of proper planning...

- Zoning

- ~~The architectural practice leased the Dartry Mills in 2000. The lands on the plateau have been in use as a playground since 2007. More recently the upper level has been used as a temporary builder's access with the agreement of Dublin City Council. Waste from the lower levels of the embankment was removed 18 months ago by the applicant's contractor.~~

- Ownership – the only means of level access to the lower section of this strip of land, from the time that the architectural practice leased it in 2000, was via the old mill building. The alternate means of access was by a very difficult and steep descent along the riverbank to the east.

- Lands on the embankment have been used as a playground since 2007, the remainder is poorly landscaped OS and an access to the embankment edge.

- The lower levels of the embankment was covered by a significant amount of domestic waste. Much of it dated to the 1920s and 1930s in its lower levels. It was removed 18 months ago.

- Areas are - playground 33.5%, access 42.1%, embankment 24.4% - not natural riverbank.

- The upper level consists of a small level plateau. Two access points are evident in the stone wall, marked by infill, consisting of cobblestones of different limestone fabric. The steep embankment to the river with a former dumping area at the bottom which was weed covered. The proposal will enable the previously approved residential and office development and the riverside walkway on the adjoining Dartry Mills site to proceed. The walkway will continue along the riverbank of the subject site linking to the proposed stairway access to Milltown Road, providing the potential for the continuation

of the pedestrian walkway through the adjoining landscaped area to the east. Key policy objective and zoning objectives are listed.

- Responding to the reference to Zoning Z6, Z9 -
  - The site did not form part of DCCs green network as these lands formed one of the last remaining barriers to public pedestrian access to the River Dodder.
  - The provision of an access through this site will assist in achieving the objective of providing a continuous pedestrian route along the R Dodder and eastwards.
  - Permission will enable them to restore the landscape on the plateau, and at the face and bottom of the embankment, by planting indigenous trees and ground cover in keeping with the character of the adjoining lands to the east.
  - The development and permitted development are linked to achieving the objective.
  - All of the permissions granted since the collapse of the former mill building have shown a riverside walkway.
- Responding to the reference to material contravention of the Zoning Z9 - S14.4 of the plan.
  - Per S14.4, the development is open for consideration as a compatible use, in Z9; residential – ancillary development to consolidate the sporting and amenity nature of Z9 lands. It is intended that the two new properties will be occupied as residences (of identified persons), one as a residence / office - live work unit. They are likened in the response to sports club owner /occupier. The proposed development is compliant, and facilitates the implementation of the overall policies and objectives of the zone.
  - GI 15 is referenced - maintain and enhance the safety of the public in its use and enjoyment of the many public parks, open spaces, waterways and linkages within the city, including the River Dodder



between Ringsend and Orwell (Waldron's) bridge -.this development is essential to the development of the strategic green network.

- Chapter 10 - green infrastructure, is referenced – including the need for ancillary development - the ownership of the residential properties is reiterated. Dublin City Council have accepted that the development will assist in achieving the implementation of the key objective of the development plan in providing a green link along the River Dodder.

- Inappropriate Changes of Use

- The description describes use – it will enable Dartry Mills Trust to restore the riverbank.

- Inappropriate Access

- They are willing to accept a condition which ensures the delivery of a public access to the walkway access to the riverside walkway. They are also willing to ensure access to the walkway.

- Inadequate Design – it is acknowledged that the proposed access stairway does not make provision for the physically challenged. It can be made accessible by a future pathway at a lower gradient through the adjoining DCC lands.

- They were given approval by DCC to make an application on a defined amount of land for the purposes of this application. Drg no. 15-054-3.8.106 Rev A, contained in an appendix to the response, is referred to.

- Previously Approved Entrance Court & Parking Area

- For legal reasons, associated with conditions imposed by mortgage providers, it is not possible for this access to be allocated to serve the proposed residential units.

- This alternative entrance is critical.

- Impact on Conservation area

- They have removed the waste, the construction of the riverside walkway is challenging due to the site profile and difficulty with site access.

- It is intended to replant with native vegetation and vegetation indigenous to the immediate environs, to a condition appropriate to its landscape heritage setting.
- Inappropriate Site Platform
  - The intervention has precedent, similar work would have been involved in the construction of North House. The edge, existing through embankment edge, will be treated in a manner which will blend in a sympathetic manner with the adjoining landscaped area to the east.
  - This small triangular area is of poor character and lacks habitat potential. The proposal, which involves creating a link between the natural plateau and the new terrace between North House and the approved residential/office building, is to create a stone faced retaining wall. CGI images are provided. There is no natural habitat. It will not be visually obtrusive, or impact negatively through vehicular access. The area in question is restricted to pedestrian access.
- Inappropriate Landscaping
  - That it is essentially urban parkland etc, is untrue. The intention is to maintain and manage the vegetation to suit the setting.
- Visual assessment
  - A letter from their landscape architect is referred to.
- Impact on Protected Structure
  - The proposal relates only to the lands to the north, it will enhance the setting when viewed from road and riverside. The removal of timber fencing will improve views; reduce intensity of use by removal of playground; and improve the long term natural environment.
  - CHC 2 – the environs were and are poorly maintained; a 2m high fence, temporary builder's access, previously an access for dumping; the proposal will improve the environs. etc
  - Re. that the natural habitat of embankment should continue as curtilage - the upper plateau and steep embankment will be extensively planted. They

are agreeable to implementation of the landscaping scheme being a condition of the permission.

- It will achieve the objective of restoring the natural habitat, similar to that of the adjoining lands to the east.

- CDP provisions are referenced in an appendix. Photographs of clearance works are attached, and photomontages of permitted development and proposed linking pathway and parking, viewed from river and birds eye.

6.2.2. Attached to the response are a Landscape Masterplan and an AA screening report.

### 6.3. **Planning Authority Response**

6.3.1. The planning authority has not responded to the grounds of appeal.

### 6.4. **Observation**

6.4.1. An observation has been received from Rathgar Residents Association, which includes:

- The assertion of material contravention is correct.
- Zoned Z9 in entirety, Z6 is incorrect. There can be no doubt that the Z9 starts at the edge of North House and extends down to the river. It would be a material contravention. The uses are not permitted or open for consideration - use of site as a car park and private access.
- Access is inappropriate – access should be unrestricted. There is reference to aspects and elements outside the area the subject of this application. The walkway design is unsatisfactory.
- They support the third party's references to conservation and the development plan, and the impact on setting of North House. There have been a series of planning applications for this site, and to pile on more such development on that already approved is not acceptable.

## 6.5. Further Responses

6.5.1. The third party has responded to the first party response to the grounds of appeal, which includes:

- The third party has read the applicant's document and does not concur with the responses.
- Re reference to previous grants of permission including from An Bord Pleanála, it is his understanding that the only previous involvement of the Board was an appeal 220226 which was subsequently withdrawn.
- The third party disagrees with the statement that the appeal is revisiting issues of principle that have been determined in the established planning history, this is the first application connected with the Dartry Mills site located entirely on Z9 zoned lands. It does revisit one issue of detail from the approved reg ref 3208/16, that permission has already been granted for two car parking spaces and an entrance court.
- Site ownership & existing uses – this highlights the fact that the existing playground occupies only a third of the site. The development description is incorrect. This is not addressed in the response, which have instead referred to the use as waste land. The riverbank between Dartry Mills and North House at one end and Classon's Weir (c1760) at the other is not extensive. It is just 150m in length and just 10m in depth for most of that length. Though small, its steep slopes and precipitous nature has resulted in a largely undisturbed habitat, providing shelter and support for kingfisher and heron, otter and badger, trout and bats. Such areas of natural riverbank are rare along the Dodder and should be protected, not diminished. A grant of permission would set an unacceptable precedent.
- The third party contests the assertion that the proposed development will enable the previously approved residential and office development and riverside walkway to proceed; the previously approved 3208/16 development can proceed, as it is independent of this proposal.
- The applicants do not appear to contest that the site is zoned Z9. Instead they refer to the implementation of a green network ... The principal component of this proposal is an entrance court and parking area unrelated to the implementation of a

green network. While the proposal includes steps to the riverside, the provision of a boardwalk is an approved condition of reg ref. 3208/16.

- Z9 zoning and material contravention – the response appears to argue that it is open for consideration in accordance with section 14.4. The open for consideration applies only to those uses listed.
- The response cites section 14.8.9. It is understood that this provision relates in particular to sports clubs or institutions, where, due to financial constraints, their long term viability could be ensured by limited once off residential or retail development.

14.8.9 clarifies this where it states: 'The continuation of sports clubs and facilities to enhance sustainable city living is recognised. In highly exceptional circumstances, in order to serve the long term retention and consolidation of the sporting facility in a locality and to secure the primary sporting land use on the site, some limited once off development is open to consideration'. This is not applicable. This is not a sporting club or institution and its viability or otherwise is not in question. It could not be construed as necessary to consolidate or retain the sporting or amenity value of the Z9 lands. The boardwalk is entirely independent of this proposal and the continuation onto Z9 riverbanks is also entirely independent of this proposal.

- Previously approved entrance court and parking area – the applicants were granted planning permission for an entrance court and parking area under Reg Ref 3208/16. They refer to external conditions preventing them from using it. These are matters outside the remit of the planning system and should be disregarded.

## **7.0 Assessment**

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, development plan compliance, impact on the amenities of the Conservation Area/ River Dodder, impact on the protected structure, and conditions, and the following assessment is dealt with under those headings.

### **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not

considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

### 7.3. **Development Plan Compliance**

#### 7.4. Zoning

- 7.4.1. The grounds of appeal refers to zoning objectives for the area, which it states is zoned Z9. It states that the planner's report refers to the site as being zoned Z6 whereas it is zoned Z9 and that the development materially contravenes the Z9 zoning.
- 7.4.2. The planner's report states that the site is zoned Z6, lands located to the south on the edge of the R Dodder and on the eastern portion of the site are zoned Z9.
- 7.4.3. The description given for the site in the planner's report appears to include an area of ground associated with the site together with the site, i.e. the complex of buildings to the south west along with the site as outlined in red. For clarity, the site as outlined in red is zoned Z9.
- 7.4.4. The Z9 zoning mapped for this area appears to include certain irregularities. It includes the protected structure, North House and a strip of land along the river bank which is occupied by buildings. The land east of the buildings, which includes the subject site is clearly within the zoning Z9. The Z9 zoning therefore includes an area used as an existing play area for the Montessori school, stated to be so used since 2007.
- 7.4.5. In response to the grounds of appeal, the first party states that:
- The areas involved are a playground 33.5%, existing access 42.1%, and an embankment 24.4% which is not natural riverbank. They state that the site did not form part of DCCs green network as these lands formed one of the last remaining barriers to public pedestrian access to the River Dodder. They point out that the provision of an access through this site will assist in achieving the objective of providing a continuous pedestrian route along the R Dodder and eastwards. They refer to Section 14.4 of the Plan which allows for the development as open for consideration, as a compatible use in Z9: residential – being ancillary development to consolidate the sporting and amenity nature of Z9 lands. In this regard they state

that the residential development associated with the proposed development will be occupied as residences by persons identified in the response and who are equivalent to sports club owner /occupier referred to in Section 14.4. The proposed development is compliant, and facilitates the implementation of the overall policies and objectives of the zone.

- 7.4.6. The third party has responded to this response, stating that the principal component of this proposal is an entrance court and parking area unrelated to the implementation of a green network; while the proposal includes steps to the riverside, the provision of a boardwalk is an approved condition of reg ref. 3208/16; that uses open for consideration applies only to those uses listed; the section 14.8.9 provision relates to sports clubs or institutions where, due to financial constraints their long term viability could be ensured by limited once off residential or retail development, which is not applicable. This is not a sporting club or institution and its viability or otherwise is not in question. It could not be construed as necessary consolidate or retain the sporting or amenity value of the Z9 lands.
- 7.4.7. The Z9 zoning provides for permissible uses: cemetery, club house and associated facilities, municipal golf course, open space and public service installation which would not be detrimental to the amenity of Z9 zoned lands. The Z9 zoning provides for open for consideration uses: car park for recreational purposes, caravan park/ camp site (holiday), community facility, craft centre/ craft shop, crèche, cultural/recreational building and uses, golf course and clubhouse, kiosk, neighbourhood retail (in accordance with highly exceptional circumstances above), tea room, café/restaurant. Uses not listed under the 'permissible' or 'open for consideration' categories are deemed not to be permissible uses in this zone, (section 14.4).
- 7.4.8. There is provision, in certain specific highly exceptional circumstances, for residential development on Z9 lands where the applicant is the sports club owner/occupier, as set out in section 14.8.9 of the plan. This refers to securing the primary sporting land use on the site. In my opinion the primary land use is not a sporting use and these exceptional circumstances do not apply in this case.
- 7.4.9. In my opinion the proposed development materially contravenes the zoning objectives of the development plan and this is a reason to refuse permission.

- 7.5. The objective to provide a walk along the River Dodder
- 7.5.1. It is an important objective of the development plan to provide a walkway along the River Dodder.
- 7.5.2. The first party has provided an outline of events which will enable such a pathway to be provided along this stretch of the riverbank; that there were buildings on the banks of the river Dodder at Dartry Mills since the late eighteenth century; the existence of these buildings was an impediment to extending the Dodder Greenway alongside the river at the Dartry Mills site; following the collapse of the Mill building on the site in 2004 permission was granted for the rebuilding of the building together with a riverside walkway (Reg Ref 4274/05); various subsequent permissions provided for the walkway; impediments to implementation of existing permissions would be overcome by the proposed entrance court and parking area, which would enable the riverside walk to be created; and the proposed development includes a pedestrian access from the road to that yet to be developed walkway.
- 7.5.3. I am satisfied that the proposed development would facilitate implementation of this important objective of the development plan and would thereby greatly improve the public amenity value of the River Dodder.
- 7.6. Public Lands
- 7.6.1. The third party is concerned that the development would involve loss of public lands including natural riverbank. The third party states that the entire site is in public ownership.
- 7.6.2. The first party has responded that the 24.4% of the subject site which is part of the embankment is not natural riverbank; and they describe the work carried out on their behalf to clear waste and vegetation in this area and their proposals to restore the area with landscaping, which will address the edge of the extended plateau and improve the area.
- 7.6.3. Part of the site is part as a playground for the Montessori school/preschool and which has been used for this purpose since 2007, and part has been used more recently as a temporary builder's depot. The letter consenting to the making of the application, from Dublin city Council refers to an attached map for illustration



purposes only, which map does not accompany the planning application, nevertheless it appears that some or all of the land the subject of the application is in public ownership.

- 7.6.4. In addition to the land contained within the site as outlined in red, it is worth noting that development is indicated in lands outside the application boundary extending to the existing palisade fence. In addition to carrying out planting and landscaping treatment of the edge of the extended plateau, the works will include a railing and shrub planting to replace the existing palisade fence, and this may exclude an additional area from public use, although this is not clear from the documents on the file.
- 7.6.5. The planning authority's duty to take steps to secure the objectives of the development plan, in relation to the provision of a pathway along the River Dodder, would clearly be advanced by the proposed development of this site, together with the associated development of the adjoining lands by the first party.
- 7.6.6. Policy GI15 has been mentioned by the first party, which includes to maintain and enhance the safety of the public in its use and enjoyment of public open space passive surveillance is referred to in policy GI 12. The proposed residential development at this location will improve passive surveillance where otherwise the shoreline is only partly overlooked from across the river and would enhance the safety of the public in its use and enjoyment of the shoreline and future pathway in accordance with the stated policies.
- 7.6.7. It is noted that points of detail in relation to use of the access to the pathway have yet to be agreed.

## **7.7. Impact on the Amenities of the River Dodder/ Conservation Area**

- 7.7.1. It is argued by the third party that the site is part of important riverside natural habitat and wildlife corridor, which would be adversely impacted by the proposed development. The first party response is that the vegetation removal was part of a clean-up which involved removal of large quantities of waste from the riverbank.
- 7.7.2. The proposed development will involve the loss of some green embankment area. Part of the development involves public access provision which is an important objective of the Development Plan. This area is not designated for nature

conservation. In relation to the proposed landscaping plan, it is worth noting that it is proposed to plant some native plants and some non-native plants. The latter for their amenity value and also to diversify the range of planting and are associated with the proposed development more than the embankment restoration. In light of the importance of riparian areas which is referred to in the Development Plan, it is considered that, should the Board be minded to grant permission, that only native vegetation should be used. Subject to the foregoing it is considered that impact on the amenities of the River Dodder or the conservation area should not be reasons to refuse permission.

## **7.8. Impact on the Protected Structure**

- 7.8.1. The grounds of appeal expresses concern that the proposed development would diminish the protected structure North House.
- 7.8.2. The first party response refers to the removal of waste; the construction of the riverside walkway on a challenging site, due to the site profile and difficulty with site access; the proposed landscaping; that there is precedent for the site platform similar work would have been involved in the construction of North House; that the small triangular area is of poor character and lacks habitat potential; the environs were and are poorly maintained - a 2m high fence, temporary builder's access, previously an access for dumping. The proposal will improve the environs. It will enhance the setting when viewed from road and riverside. The removal of timber fencing will improve views; reduce intensity of use by removal of playground; and improve the long term natural environment. It will achieve the objective of restoring the natural habitat, similar to that of the adjoining lands to the east.
- 7.8.3. In support of the proposal, CGI images are provided.
- 7.8.4. The proposed development will have no direct impact on the protected structure. It will involve some alterations to the stone wall along the public road, including removal of a portion of the wall to provide a vehicular entrance. It includes provision of public access to the shoreline of the river from the public road. Improving access to the River Dodder is an important objective of the development plan. The proposed development will open up side views of North House and improve on the recent visual context of hoardings and builder's yard.

7.8.5. In my opinion the proposed development will have limited visual impact on the protected structure. Impact on the protected structure should not be a reason to refuse permission.

## 7.9. **Conditions**

7.9.1. Condition 3 arises from the report of the Roads & Traffic Planning Division.

3 d) states

The layout and configuration of car parking indicated within the overall site on Drawing no. 3.8-104A is unacceptable. Prior to commencement of development the applicant shall submit a revised parking layout for the overall site which maintains a clear and unobstructed right of way through the site and which reduces the potential for reversing movements onto the adjoining road network.

7.9.2. In their report the Roads & Traffic Planning Division note that spaces 7 and 8 as indicated on Drawing No. 15.054 3.8.105 Rev A appear to block this right of way to the boardwalk; that Dublin City Council is currently developing a proposal for the Dodder Greenway; and that it appears that the development proposed within the application site would not prohibit the delivery of the Dodder Greenway; and notes that previous permissions on the overall site required a clear and unobstructed right of way to be maintained through the southern part of the site to the new boardwalk.

7.9.3. For clarity, this refers to car parking in the vicinity of the bridge across the river which is on the associated lands and not the land the subject of this application. Should the board be minded to grant permission, this part of the condition should not be attached.

## 8.0 **Recommendation**

8.1.1. In the light of the above assessment I recommend that planning permission be refused for the following reasons and considerations.

## 9.0 Reasons and Considerations

The site is located entirely within an area zoned Z9 where the objective is to preserve, provide and improve recreational amenity and open space and green networks. Development of the type proposed is neither permissible nor open for consideration in this zone and is deemed not to be a permissible use in this zone, accordingly the proposed development would materially contravene the provisions of the current Dublin City Development Plan and be contrary to the proper planning and sustainable development of the area.

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Planning Inspector

19<sup>th</sup> February 2019

Appendix 1 Photographs

Appendix 2 Extracts from the Dublin City Council Development Plan 2016-2022