



An
Bord
Pleanála

Inspector's Report ABP-303058-18

Development	Construction of a three-storey building comprising ten staff accommodation apartments
Location	Beneavin Nursing Care Facility, Beneavin Road, Glasnevin, Dublin 11
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3174/18
Applicant(s)	Beneavin Contractors Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Anne Jackson & Others
Observer(s)	1). Annette Malone, 2). Peter Doherty, 3). Marie Dunne, 4). Martina Connolly, 5). Ray Brannigan, 6). Marie Clarke and 7). Cllr. Paul McAuliffe
Date of Site Inspection	5 th March 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located off Beneavin Road, which connects Beneavin Drive and Glasnevin Avenue (the R103 regional road), approximately 4.5km north of Dublin city centre. The site forms part of the Beneavin Nursing Care Facility, which includes Beneavin House and Beneavin Lodge, both located along Beneavin Road and arranged around quadrangles. Beneavin Manor, the most recent addition to the facility, is situated to the rear of Beneavin Lodge and includes palliative care facilities.
- 1.2. The nursing care facilities adjoin the grounds of Beneavin De La Salle Post-Primary College, which includes a playing field to the rear of Beneavin House, adjacent to the appeal site. The subject development area is located in the southeast corner of the facility campus and is set back approximately 125m from Beneavin Road. It currently comprises ground that was recently used as a compound for the construction of Beneavin Manor and associated development, including a surface level car park.
- 1.3. The nursing care facility is largely surrounded by residential properties, including two-storey terraced and semi-detached housing along Ferndale Avenue and Ferndale Road backing onto the south and east of the appeal site respectively. The boundaries along the rear of the residences generally comprise block walls and sheds of between 1.5m and 2.5m in height, flanked on the nursing care facility grounds by a line of mature trees, including Horse Chestnut, Beech, Poplar, Sycamore and Alder. Ground levels in the vicinity drop gradually moving southwards.

2.0 Proposed Development

- 2.1.1. The proposed development comprises the following:
 - construction of a three-storey detached building to provide for ten apartments to serve staff of the nursing care facility on site, including six two-bedroom units and four three-bedroom units, with a stated GFA of 1,043sq.m, each served by either terraces or balconies. The building would include dormer

projections at roof level, interlocking roof tiles, pvc windows and doors, as well as a buff-clay brick and render finish to the walls;

- provision of an amenity space measuring a stated 78sq.m adjacent to the north of the building, all associated site works, including connections to engineering services and removal of three trees.

2.1.2. In addition to the standard contents, the planning application was accompanied by a planning compliance report, a facility masterplan drawing, landscape plans including boundary treatments, tree survey drawings, an arboricultural impact assessment and engineering details, including a car parking survey.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority recommended a grant of permission subject to 18 conditions, the following of which are of note:

- Condition No.4: accommodation shall only serve staff and families of the nursing home facility;
- Condition No.5: provision of privacy screens to the southside of the upper-floor balconies serving units 6, 7, 9 and 10;
- Condition No.16: restrict occupation of units up to two years and only to employees of Beneavin Nursing Care Facility;
- Condition No.17: residential units not be sold or sublet.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (July 2018) noted the following:

- the applicant has highlighted that they have experienced difficulty in attracting and retaining staff for the facility due to the housing demand and they are proposing to provide the apartments to address same. No evidence of direct management linkages between the nursing home and the proposed apartments has been submitted;

- the proposed development would occupy soft landscaped and a car park area approved under the recent planning permission Dublin City Council (DCC) Ref. 3123/16 (ABP Ref. PL29N.247797), which maintained a set back from residential properties;
- over 25% of the nursing home campus would need to remain in open space use, in accordance with the site's Z15 'Institutional' land-use zoning objectives. The majority of this area would be within the lands in control of the adjoining college;
- notwithstanding the 20m to 30m length of the rear gardens to properties along Ferndale Road, the proximity (10m) of the proposed balconies to neighbouring properties would have a detrimental impact on residential amenities as a result of noise, disturbance and excessive overlooking;
- the floor areas of the apartments exceed the minimum requirements set out within the 'Design Standards for New Apartments', although excessive levels of internal storage space are proposed and access to light may be restricted by mature trees and large balconies;
- the proposed communal open space area (78sq.m) is of sufficient size and location, but further details regarding the functionality of its use as a playground and access to light are required;
- three grade 'C' trees are to be removed and replaced along the boundary with the rear of properties along Ferndale Avenue;
- the proposals do not include additional car parking to serve the apartments and would result in a loss of car parking, in an area where concerns over parking already exist.

The final report of the Planning Officer (October 2018) reflects the recommendation of the Planning Authority. The Planning Officer noted the following:

- the communal open space would be accessible both to the residents of the apartments and the nursing home;
- the loss of the permitted car parking spaces and a 3% overall loss in open space would not be substantial, as this does not contribute to the strategic green network;

- a contribution in lieu of the lack of provision in open space is required;
- privacy screens would address the potential for overlooking to arise;
- the proposed apartments would be ancillary to the nursing care facility.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) – no objection subject to conditions;
- Roads & Traffic Planning Division - further information required regarding car parking provision. Subsequently no objection, subject to conditions;
- Parks & Landscape Department – no response.

3.3. Prescribed Bodies

- Irish Water – no response.

3.4. Third-Party Submissions

- 3.4.1. A total of seven submissions were received, six of which were from local residents of Ferndale Road, Ferndale Avenue and Beneavin Road, and one from a local elected representative. The issues raised are covered within the grounds of appeal and observations below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. Pre-planning discussions between representatives of the Planning Authority and the applicant took place in February 2018 under Dublin City Council (DCC) Ref. PAC0064/18, when the applicant was requested to refine the building design and to omit inclusion of apartments not intended to serve the nursing home. In addition to this, the appeal site has an extensive recent planning history, including the following:

- ABP Ref. PL29N.247797 (DCC Ref. 3123/16) – permission granted in June 2017 for a three-storey extension (Beneavin Manor) to the rear of the nursing home with revised parking provision, omitting previously permitted basement parking and providing 59 surface car park spaces;

- ABP Ref. PL29N.245935 (DCC Ref. 3454/15) – permission granted in April 2016 for amendments to DCC Reg. Ref. 2060/12 to provide a new basement car parking under a four-storey nursing home extension and amendments to DCC Reg. Ref. 3602/14 providing for a larger dementia care wing;
- DCC Ref. 3602/14 – permission granted in January 2015 for a three-storey dementia wing extension along the east side of Beneavin Lodge onto Beneavin Road, which included a condition (4c) requiring the proposed new vehicular entrance onto Beneavin Road to be closed nightly from 9pm;
- DCC Ref. 2060/12 – permission granted in April 2012 for additional floors to the nursing home and retention permission granted for additional staff and residents' facilities. An extension of duration for this permission was granted in 2017 until July 2022 (under DCC Ref. 2060/12/X1);
- DCC Ref. 3797/08 - permission granted in October 2008 for alterations to planning permission granted under DCC Ref. 2989/07 to allow for omission of links between the independent living units (Beneavin House) and the nursing home (Beneavin Lodge);
- ABP Ref. PL29N.225711 (DCC Ref. 2989/07) - permission granted by the Planning Authority in May 2008 for three to four-storey extensions to the nursing home along Beneavin Road, including an additional 83 beds and 20 independent-living units. The appeal solely addressed a general development contribution condition;
- DCC Ref. 3178/02 - permission granted in December 2002 for a 62 bed nursing home facility and three independent-living units.

4.1.2. Reflective of the immediate urban context, there have been numerous applications in the vicinity, the following of which relates to the adjacent school campus, is of note:

- DCC Ref. 4040/16 - permission granted in February 2017 for two floodlit artificial grass playing pitches with 12m-high ball stop netting to the rear of the main pitch adjoining the new surface parking area serving the appeal site.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z15 – Institutional & Community' within the Dublin City Development Plan 2016-2022, with a stated objective 'to protect and provide for institutional and community uses'. Within Z15 zoned lands, residential uses are 'open for consideration'. Additional matters to be considered when assessing proposals for development on Z15 lands include the following:
- potential to contribute to the development of a strategic green network and the delivery of housing;
 - integration with surrounding uses, including prevailing heights at any perimeter with existing residential development and the standards in Section 14.7 of the Plan (relating to the avoidance of abrupt transitions of scale);
 - whether the proposals assist in securing the aims of the Z15 zoning objective, assist in retaining the main institutional and community uses on site and assist in retaining the existing functional open space (25% of the lands should remain for open space and/or community facilities).
- 5.1.2. Relevant planning policies for residential development are set out under Section 5 (Quality Housing) and Section 16 (Development Standards) within Volume 1 of the Development Plan. Policy QH1 of the Plan seeks to build upon and enhance standards outlined in 'Sustainable Urban Housing: Design Standards for New Apartments' (2015), amongst other national housing guidelines. Relevant residential policies in this case include:
- QH8 – high-quality apartments;
 - QH22 - ensure new housing respects existing housing.
- 5.1.3. Standards for landscaping are outlined in Section 16.3 and design standards for apartments are set out in Section 16.10.1 of the Plan. Matters to be considered in assessing proposals for backland development are outlined under Section 16.10.8 of the Plan.

- 5.1.4. The Plan refers to the Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice (Building Research Establishment [BRE] Report 2nd Edition, 2011) when considering impacts on sunlight and daylight.
- 5.1.5. Section 16.7.2 of the Development Plan sets out building height limits, including a 16m restriction for commercial and residential development in this part of the outer city. Other relevant sections of the Development Plan include the following:
- Section 4.5.3 - Making a More Compact Sustainable City;
 - Section 4.5.9 – Urban Form & Architecture.
- 5.1.6. In this part of the city (Area 3), a maximum of 1.5 car parking spaces per dwelling is allowed for, based on standards listed in Table 16.1 of the Plan.

5.2. **Environmental Impact Assessment - Preliminary Examination**

- 5.2.1. Having regard to the nature and scale of the proposed development and the location of the site, 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. A third-party appeal against the decision of the Planning Authority was received by the Board from a resident of 50 Ferndale Avenue, which is situated adjacent to the southeast of the appeal site. The main issues raised within the grounds of appeal can be summarised as follows:
- the building would be situated less than 29m and 11m respectively from the rear of the appellant's house and their rear boundary;
 - the proposals would be domineering in appearance, given the proposed building height and the increase in ground level onto the appeal site from Ferndale Avenue;

- the proposals would result in a reduction of light to the north-facing elevation of the appellant's house;
- the proposals would lead to a loss of privacy for the appellant, as a result of the proximity of the building to their boundary and the overlooking that would arise, particularly from the balconies. The condition requiring screening to the balconies would not comprehensively address overlooking concerns;
- the building should be repositioned closer to the main cluster of nursing home buildings.

6.2. Observations

- 6.2.1. A total of seven observations to the appeal were received, six of which were from local residents of Ferndale Avenue and Ferndale Road, and one from a local elected representative. The issues raised can be summarised as follows:

Design & Visual Amenity

- apartment blocks are not appropriate to this Z15 institutional and community zoned area, which is dominated by housing. A three-storey building would be out of character with the prevailing two-storey houses;
- the proposed use is not in keeping with the existing current use as a nursing home and the incremental development of the site as a nursing home facility is proving over-intensive, excessive and unsustainable;
- the building would be overbearing and an eyesore;

Traffic, Access & Parking

- parking to serve the 47 bedspaces is not proposed and insufficient parking provision for the overall facility would arise, in an area already suffering from parking congestion;
- additional traffic would arise along the local road network;
- the proposed use of the existing access from the east side off Beneavin Road was initially permitted under DCC Ref. 3602/14, which included a condition (4c) requiring the entrance to be closed nightly at 2100hours;

Residential Amenities

- loss of privacy for residents would occur, as a result of the proximity of the building to neighbouring boundaries and the potential for overlooking that would arise, particularly from balconies;
- excessive overshadowing of neighbouring gardens would arise;
- during construction activities residential amenities would be undermined by emissions and rodents;
- proposals would not comply national guidelines outlined within 'Sustainable Residential Development in Urban Areas' and the 'Urban Design Manual';

Other Matters

- proposals would result in the depreciation of local property values;
- proposals would have a substantial environmental impact and would result in the loss of screening provided by mature trees, which would be contrary to the tree protection Policy G128 of the Development Plan;
- the applicant's problems in recruiting and retaining staff could be addressed by other non-planning means;
- the building would be too close to the playing field and would restrict safe use of the field;
- complaints against ongoing work on site have been lodged to the Planning Authority.

6.3. Planning Authority Response

6.3.1. The Planning Authority did not respond to the grounds of appeal.

6.4. Applicant's Response

6.4.1. The applicant's response to an observation circulated by the Board, can be summarised as follows:

- the proposed apartments exceed Development Plan minimum standards;
- proposals are consistent with the Z15 zoning objectives for the site;

- proposals would allow the facility to secure the healthcare campus and the centre of excellence prospects of the entire facility;
- due consideration of residential amenities and integration with surrounding uses was undertaken as part of the application and expanded upon in the further information response;
- sufficient set back from residential boundaries and neighbouring houses is provided to avoid potential for excessive overlooking and the condition for screening to balconies would further address this;
- suitable landscaping and open space required for the development is provided;
- the scale of the building would be appropriate for this location and would make for efficient and sustainable use of urban lands that were primarily residual to the operation of the school.

6.5. Further Submission(s)

6.5.1. The appellant's response to an observation circulated by the Board reaffirms matters raised within their grounds of appeal, supports the matters raised within the observation, raises enforcement matters and can be summarised as follows:

- the appellant is aggrieved that despite the Planning Authority flagging serious concerns initially with the proposed development, the proposals were not altered by the applicant in response to the further information request and the Planning Authority deemed the proposals to be acceptable;
- the proposals would not be ancillary to the nursing care facility and would fail to integrate with surrounding uses or secure the institutional and community objectives for the site.

7.0 Assessment

7.1. Introduction

7.1.1. I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Zoning;
- Impact on Residential Amenities;
- Design & Visual Impact;
- Access & Parking.

7.2. Zoning

- 7.2.1. The proposed development would comprise the construction of an apartment block solely to serve the staff of Beneavin Nursing Care Facility, which is stated to accommodate 302 patient rooms, while the Health Information and Quality Authority (HIQA) documentation would suggest the maximum occupancy of the facility would be 335. The appeal site is situated on lands that have a land-use zoning objective 'Z15 – Institutional & Community' within the Dublin City Development Plan 2016-2022, with a stated objective 'to protect and provide for institutional and community uses' and where residential use is 'open for consideration'. The school lands to the west of the site are also zoned 'Z15' for institutional and community purposes, while the adjoining residences along Ferndale Avenue and Ferndale Road have a land use zoning objective 'Z1 - Sustainable Residential Neighbourhoods'. The applicant has highlighted that they have experienced difficulty in attracting and retaining staff for the facility due to the housing situation within the city and they are proposing to provide the apartments to address same. In recommending a grant of planning permission, the Planning Authority attached conditions restricting occupancy and use of the proposed apartments and the applicant has not objected to same. Observers to the appeal assert that the apartments are not appropriate on Z15 lands and that residential use would not be in keeping with the existing use of the site as a nursing care facility.
- 7.2.2. The nursing care facility has an extensive planning history and following the applicant's acquisition of lands from the adjoining Beneavin De La Salle College, the Board granted permission in June 2017 for a three-storey extension (Beneavin Manor) to the rear of the nursing care facility with 59 surface car park spaces (ABP Ref. PL29N.247797/DCC Ref. 3123/16). With the exception of the area subject of the appeal site, this development has been completed. Soft landscaping and eight car park spaces were approved in the appeal site area.

- 7.2.3. For development proposals on Z15 lands, the Development Plan requires consideration of the potential for the development to contribute to the development of a strategic green network and the delivery of housing. On Z15 lands, the Development Plan also requires 25% of the lands to remain for open space and/or community facilities. To assist in consideration of this, the Development Plan outlines that a Masterplan may be submitted. The applicant submitted a Masterplan (Drawing No.PL00A) illustrating the extent of development areas and open space areas on both the Beneavin Nursing Care Facility and the adjoining Beneavin De La Salle College. The applicant asserts that 29% of net useable open space would remain. However, I note that the vast majority of useable and functional open space would be provided within the grounds of Beneavin De La Salle College and not on the nursing care facility grounds. In recommending a grant of planning permission, the Planning Authority considered that the overall loss in open space (3%) would not be substantial, given that this did not originally contribute to the strategic green network.
- 7.2.4. While 25% of the site would normally be required for public open space under the Z15 zoning objective, the Development Plan also stipulates that ‘this requirement need not apply if the footprint of the existing buildings exceed 50% of the total site area of the institutional lands’. The applicant states that the current site coverage for the applicant’s landholding is 42%. While the proposed development would not contribute to the delivery of a strategic green network in the city, it would not undermine this strategic objective, given the nature and extent of green space that would be lost to facilitate the building. The proposed development would remain ancillary to the nursing care facility and thereby enhance and secure the operation of the institutional and community use and objectives for the site. Residential use is open for consideration on these lands and the proposed development would provide an additional alternative form of housing supporting the housing needs of the city, which would be very much in a manner that would have been common traditionally for institutional facilities similar to this.
- 7.2.5. In conclusion, subject to consideration of the impact of the development on neighbouring amenities, as well as other planning and environmental matters, I am satisfied that the proposed development would comply with the land-use zoning objectives of the Development Plan. Accordingly, the proposed development would

not be contrary to the proper planning and sustainable development of the area, and planning permission should not be refused for reasons relating to zoning.

7.3. Impact on Residential Amenities

- 7.3.1. Section 16.10.8 of the Development Plan notes that backland development can result in significant loss of amenity for existing properties via loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening, and development proposals on Z15 lands need to integrate with surrounding uses. Furthermore, Policy QH22 of the Development Plan requires new housing to respect existing housing. The grounds of appeal assert that the proposed development fails to respect surrounding amenities, as it would lead to excessive overlooking and overshadowing of neighbouring properties and it would have an overbearing impact when viewed from neighbouring properties that are located on lower ground and in close proximity to the apartment building. Within the further information submission, the applicant provided additional contextual elevation drawings to illustrate the relationship of the proposed development with neighbouring amenities. In recommending a grant of permission, the Planning Authority attached a condition requiring screens to balconies to reduce the potential for overlooking of properties along Ferndale Avenue to the south.
- 7.3.2. The proposed building would include windows and balconies at first-floor and second-floor level facing east towards the rear of houses along Ferndale Road and facing south towards the rear of houses on Ferndale Avenue. The rear boundary with the housing to the east would be between approximately 8.7m and 10m from the east side elevation to the apartments, and 6.7m from the upper floor balconies. The nearest house to the east, No.32 Ferndale Road, would be approximately 53.5m from the proposed building. The rear boundary of the housing to the south would be approximately 9.6m from the south elevation to the apartments. The nearest house to the south, No.52 Ferndale Avenue, would be approximately 26.8m from the proposed building. As part of the development, it is proposed to remove three mature trees set slightly off the southern boundary and to maintain and supplement 13 mature trees along the southern and eastern boundaries (see landscape Drawing No. LO-01 A). Views into the rear of properties would be significantly screened by these trees and various shed structures at the end of many of the neighbouring

gardens. The condition recommended by the Planning Authority would also reduce the potential for direct overlooking of private amenity to neighbouring properties. I am satisfied that sufficient separation distances would be achieved between the proposed building and the rear windows of neighbouring houses and the rear gardens are of sufficient size to ensure excessive overlooking would not arise. As a consequence I do not consider further mitigation measures would be required to address overlooking. I am satisfied that the proposed development would not result in excessive overlooking of neighbouring properties and a condition should be attached to provide screening or similar design features on the south side of the proposed balconies serving apartment Nos. 6, 7, 9 and 10.

7.3.3. The grounds of appeal and the observers refer to the difference in levels between the appeal site and the neighbouring residential properties, as contributing to the impact of the development on neighbouring amenities. While I recognise the difference between the proposed ground-floor level of the apartment block would be approximately 1m above that of the neighbouring housing on Ferndale Avenue, this is not significant given the separation distances, as detailed above. I consider that the siting of the proposed apartment building would not have an overbearing appearance when viewed from the nearest properties, particularly in the context of the higher buildings within the main nursing care facility. Furthermore, given the separation distances from the rear of neighbouring boundaries and the positioning of the building to the west and north of the nearest properties, I am satisfied that the proposed development would not reasonably result in excessive overshadowing of gardens to these properties.

7.3.4. In conclusion, I am satisfied that the proposed development would not have a detrimental impact on the residential amenities of neighbouring dwellings by virtue of overshadowing, overlooking or an overbearing impact. Accordingly, the proposed development should not be refused for reasons relating to the impact on residential amenities.

7.4. **Design & Visual Impact**

7.4.1. The grounds of appeal and observers assert that the building would be overly-dominant and out-of-character with the height of surrounding two-storey housing and would have a detrimental impact on the visual amenities of the area. There is a well-

defined and established urban grain in the immediate vicinity with two-storey housing fronting onto streets and backing onto green spaces and schools. The proposed development would introduce a three-storey building into this predominantly two-storey cityscape. The Beneavin House Nursing Facility includes three-storey elements on higher ground to the appeal site and in considering whether to reduce the height of Beneavin Manor from three to two storeys (under ABP Ref. PL29N.247797), the Board directed that the proposed development would be positioned sufficient separation distance (29m) from neighbouring houses to allow for a three storey building. The appeal site or surrounding area is not provided with any conservation status and the proposed building height (c.9.5m) complies with building height restrictions for the outer city (16m). I do not consider that the introduction of a three-storey structure into this cityscape would unduly impact on the character or visual amenities of the area, particularly given the slight variation in land levels, which increase in a northerly direction and with a c.1m drop from the site to the rear gardens of housing to the south and east. The general proportions of the proposed building are similar to those of the adjacent dwellings and the proposed development would be in keeping with the style of recently permitted developments within the nursing care facility.

- 7.4.2. The grounds of appeal assert that the proposed building should be repositioned closer to the main cluster of nursing home buildings. However, considering the conclusions of my assessment regarding the impact of the development on residential amenities (Section 7.3), I do not consider this to be necessary.
- 7.4.3. Policy QH8 of the Development Plan requires high-quality apartments in development proposals. It is noted by the Planning Authority that the proposed apartments exceed the minimum requirements set out within the 'Design Standards for New Apartments'. Furthermore, the proposed houses would be provided with a minimum of 9.8sq.m private open space in the form of balconies or terraces, which would exceed Development Plan minimum standards for same. A playground area (78sq.m) is proposed as part of the development and details should be requested as a condition should the Board decide to grant permission.
- 7.4.4. Having regard to the lack of a significant impact on the residential or visual amenities of property in the vicinity, as discussed above, there is no evidence to support the

appellant's and observers' contentions that the proposals would negatively affect property values in the area.

- 7.4.5. In conclusion, subject to conditions, I am satisfied that the scale, height, design and layout of the proposed development would provide for a suitable level of amenity for future occupants, would not conflict with the established pattern and character of development in the area and would not have a detrimental impact on the visual amenities of the area. Accordingly, the proposed development should not be refused for reasons relating to design and visual impact.

7.5. Access & Parking

- 7.5.1. The proposed apartments would be accessed via the existing entrance off Beneavin Road, which provides access to the surface level car park and service areas to the rear of Beneavin Lodge. Separate access to parking and servicing for Beneavin House is provided to the west off Beneavin Road. The observers to the appeal highlight that the proposed access was permitted under DCC Ref. 3602/14, which included a condition (4c) requiring the entrance to be closed nightly at 2100hours. The applicant has not sought to amend this condition and I am not aware of the condition having been amended via recent permissions. Breach of planning conditions would be an enforcement matter for the Planning Authority and I am satisfied that the access can serve the proposed development. The Roads & Traffic Division of Dublin City Council has reviewed the application and has not objected to the use of the access to serve the proposed apartments.
- 7.5.2. The apartments are intended to serve staff of the nursing care facility, and I note that parking for staff was previously proposed in the location of the proposed apartment building. The application was accompanied by a car parking survey, which was amended in response to a further information request. The Roads & Traffic Division note that a maximum of 151 spaces would be required to serve the proposed development and the associated nursing care facility. The facility has permission for 130 spaces and eight car parking spaces would be lost to facilitate the development. The applicant's survey suggests that a maximum of 84 car parking spaces are parked on site at any one time and the Roads & Traffic Division is satisfied that there would be sufficient car parking within the site to accommodate the proposed development.

7.5.3. Accordingly, I am satisfied that the access and parking to serve the proposed development would be acceptable and the proposed development should therefore not be refused for this reason.

8.0 **Appropriate Assessment**

8.1.1. A screening report for Appropriate Assessment was not submitted as part of the planning application or appeal.

8.1.2. The closest European sites to the appeal site are the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024), which is located approximately 5.1km to the southeast at Clontarf and the North Bull Island SPA (Site Code: 004006) and the North Dublin Special Area of Conservation (SAC) (Site Code: 000206), both of which are located approximately 8km to the east of the site at Dollymount strand. Other European sites within 15km of the appeal site include; South Dublin Bay SAC (Site Code: 000210), Malahide Estuary SAC (Site Code: 000205), Malahide Estuary SPA (004025), Ireland's Eye SAC (002193), Ireland's Eye SPA (Site Code: 004117), Rockabill to Dalkey Islands SAC (Site Code: 003000), Rogerstown Estuary SAC (Site Code: 000208), Rogerstown Estuary SPA (Site Code: 004015), Howth Head SAC (Site Code: 000202), Howth Head Coast SPA (Site Code: 004113), Lambay Island SAC (Site Code: 000204) and Lambay Island SPA (Site Code: 004069).

8.1.3. The nearest pathway to the aforementioned designated sites from the appeal site is the Finglas River, which ultimately enters the Tolka River approximately 1.2km to the south of the appeal site and flows in an easterly direction towards Dublin Bay. With the exception of the South Dublin Bay and River Tolka Estuary SPA, the North Bull Island SPA and the North Dublin SAC, I am satisfied that the other sites within 15km of the appeal site can be 'screened out' on the basis that significant effects on these European sites could be ruled out as a result of the separation distances from the appeal site, the urban terrain and given the absence of any hydrological or other pathway to the appeal site.

8.1.4. The Tolka River drains to the South Dublin Bay and River Tolka Estuary SPA and the adjacent North Bull Island SPA and the North Dublin SAC. The conservation objectives for the South Dublin Bay and River Tolka Estuary SPA and the North Bull

Island SPA seek to maintain the favourable conservation condition of various estuarine and coastal bird species and wetland habitats. The Conservation objectives for North Dublin SAC seek to maintain the favourable conservation condition of petalwort and the following habitats: mudflats and sandflats, annual vegetation of drift lines, salicornia and other annuals colonizing mud and sand, Atlantic salt meadows, Mediterranean salt meadows, embryonic shifting dunes, shifting dunes along the shoreline with *ammophila arenaria* ('white dunes'), fixed coastal dunes with herbaceous vegetation ('grey dunes') and humid dune slacks.

8.1.5. The subject proposals would not have the potential for loss or fragmentation of protected habitats. Having regard to the 'Source-Pathway-Receptor' model, there would not be a direct pathway between the proposed development and the European sites. I note that significant surface water attenuation is provided within the landholding. In addition, given the distance from the European sites across built-up urban lands and the proposed connection to the existing foul network, I am satisfied that the proposals would not result in a reduction in the quality of the SPA wetland habitats or the SAC habitats or the status of protected birds or plant (petalwort) species.

8.1.6. In conclusion, the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the North Bull Island SPA (Site Code: 004006) and the North Dublin SAC (Site Code: 000206), or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a Natura Impact Statement is not therefore required.

9.0 Recommendation

9.1. I recommend that planning permission should be granted for the reasons and considerations set out below, subject to compliance with conditions hereunder.

10.0 Reasons and Considerations

10.1. Having regard to the 'Z15' Institutional and Community land-use zoning objectives for the site, as set out in the Dublin City Development Plan 2016-2022, to the scale

and nature of the nursing care facility adjoining the site and to the design, height, nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not conflict with the provisions of the Development Plan, would enhance the Institutional and Community land use objectives for the nursing care facility, would integrate in a satisfactory manner with existing development in the area, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 2nd day of October 2018, 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. The proposed apartments shall only be occupied by staff of Beneavin Nursing Care Facility and their immediate family members, and shall not be used, occupied, sold, let or leased for events and functions independent of the nursing care facility. The apartments shall not be used as independent self-contained permanent residential units or student accommodation.

Reason: To ensure that the development would accord with the provisions of the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

3. The proposed development shall be amended as follows:

- (a) obscure glazing and/or screening shall be fitted to the southside of the balconies serving units 6, 7, 9 and 10.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed building, shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The landscaping scheme, as submitted on the plans and details to the planning authority, shall be carried out within the first planting season following substantial completion of external construction works and before occupation of the units.

The areas of open space shown on the lodged plans shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority.

Details of the playground area, including equipment, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity and to ensure the satisfactory development of the open space areas, and their continued use for this purpose.

6. The trees identified for retention in the Arboricultural Assessment shall be protected during construction in accordance with the tree protection measures outlined in the submitted plans and particulars. All service pipes shall be so routed as to avoid the root spreads of the trees identified for retention.

Reason: In the interests of orderly development, and to prevent damage to those trees identified to be retained, having regard to the policies set out in the current Development Plan for the area.

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

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

8. Water supply and drainage arrangements shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health.

9. Prior to commencement of development, the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in

particular recyclable materials, in the interest of protecting the environment.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This Plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances following submission to the Planning Authority and agreement in writing with the Planning Authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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

application of the terms of the Scheme.

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

Colm McLoughlin
Planning Inspector

8th March 2019